

PREVIEWING THE NUCLEAR NON-PROLIFERATION TREATY REVIEW CONFERENCE

HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TERRORISM AND NONPROLIFERATION OF THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED NINTH CONGRESS

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PREVIEWING THE NUCLEAR NON-PROLIFERATION TREATY REVIEW CONFERENCE

THURSDAY, APRIL 28, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL TERRORISM
AND NONPROLIFERATION,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:06 a.m. in room 2172, Rayburn House Office Building, Hon. Edward R. Royce (Chairman of the Subcommittee) presiding.

Mr. ROYCE. This hearing of the Subcommittee will come to order. This hearing is "Previewing the NPT Review Conference."

The Nuclear Nonproliferation Treaty Review Conference opens on Monday in New York. The conference has been held every 5 years since the treaty entered into force in 1970. This conference confronts some high hurdles. There is no agreed upon agenda. A successful conference is far from certain.

Several developments have changed the landscape since the 2000 NPT Review Conference: 9/11, which has intensified concern about nuclear terrorism; North Korea's withdrawal from the NPT and Pyongyang's declaration that it possesses nuclear weapons; the discovery of the sophisticated A.Q. Khan black market in nuclear technology, raising worries about undetected similar networks around the globe; and the surfacing of Iran's uranium enrichment capabilities and its consequent progress toward developing nuclear weapons. North Korea and Iran are state sponsors of terrorism. We are all concerned about their possible proliferation of nuclear technology and material to terrorist groups. The most notable positive is Libya which, with United States aid, disassembled its clandestine nuclear weapons program in 2003 after detection by the U.S. and the U.K.

The Administration is right to expect the conference to wield pressure against Iran and against North Korea. The treaty's credibility will suffer if its member states fail to confront these pressing cases, which would be unfortunate. The NPT has been a useful tool in checking nuclear proliferation. Without it, I believe there would be many more nuclear arms states today, but the NPT is in bad need of strengthening.

The conference should discuss the grave shortcomings of the NPT as its commonly interpreted today, that states can legally develop all technologies relevant for nuclear weapons, including plutonium and uranium enrichment except one, weaponization. The treaty does not mention a right to reprocessing or to enrichment. As

North Korea and Iran show, this current interpretation is a very real problem. It is a problem that bodes poorly for the treaty's effectiveness unless norms are somehow changed.

Some member states are charging that the United States is not sufficiently committed to eliminating its nuclear arsenal. They point to its rejection of the Comprehensive Test Ban Treaty, planned research into nuclear weapons, and evolving nuclear doctrine. The Administration counters, as we will hear today, by pointing to the significant reduction in the U.S. nuclear arsenal made over the last several years. There is no shortage of countries eager to berate the United States.

The international security situation has fundamentally changed since the NPT was drafted in the 1960s. The Additional Protocol should help, but more needs to be done. The treaty needs sustained attention and innovative thinking during the conference, and we need some innovative thinking beyond the conference. Our assumptions need constant checking if the NPT is to continue to be helpful in the critical task of stemming nuclear proliferation.

[The prepared statement of Mr. Royce follows:]

PREPARED STATEMENT OF THE HONORABLE EDWARD R. ROYCE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TERRORISM AND NONPROLIFERATION

WASHINGTON, D.C.—Today, the House Subcommittee on International Terrorism and Nonproliferation (ITNP) held a hearing on the issues surrounding the upcoming Treaty on the Nonproliferation on Nuclear Weapons Review Conference. The Conference will be held from May 2 until May 27 in New York City. ITNP Chairman U.S. Rep. Ed Royce (R-CA-40) issued the following opening statement:

“The Nuclear Nonproliferation Treaty (NPT) Review Conference opens on Monday in New York. The Conference, which has been held every five years since the Treaty entered into force in 1970, confronts high hurdles. There is no agreed-upon agenda. A successful conference is far from certain.

“Several developments have changed the landscape since the 2000 Review Conference: 9/11, which has intensified concern about nuclear terrorism; North Korea's withdrawal from the NPT and Pyongyang's declaration that it possesses nuclear weapons; the discovery of the sophisticated A.Q. Khan black market in nuclear technology, raising worries about undetected similar networks; and the surfacing of Iran's uranium enrichment capabilities and its consequent progress toward developing nuclear weapons. North Korea and Iran are state sponsors of terrorism. We are all concerned about their possible proliferation of nuclear technology and materials to terrorist groups. The most notable positive is Libya, which, with U.S. aid, disassembled its clandestine nuclear weapons program in 2003 after detection by the U.S. and the U.K.

“The Administration is right to expect the Conference to wield pressure against Iran and North Korea. The Treaty's credibility will suffer if its member states fail to confront these pressing cases, which would be unfortunate. The NPT has been a useful tool in checking nuclear proliferation. Without it, I believe, there would be more nuclear-armed states today. But, the NPT is in bad need of strengthening.

“The Conference should discuss the grave shortcoming of the NPT as it's commonly interpreted today: that states can legally develop all technologies relevant for nuclear weapons, including plutonium and uranium enrichment, except one—weaponization. The Treaty does not mention a right to reprocessing or enrichment. As North Korea and Iran show, this interpretation is a very real problem. It is a problem that bodes poorly for the Treaty's effectiveness, unless norms are somehow changed.

“Some member states are charging that the U.S. is not sufficiently committed to eliminating its nuclear arsenal. They point to its rejection of the Comprehensive Test Ban Treaty, planned research into new nuclear weapons and evolving nuclear doctrine. The Administration counters, as we will hear today, by pointing to the significant reduction in the U.S. nuclear arsenal made over the last several years. There is no shortage of countries eager to berate the U.S.

“The international security situation has fundamentally changed since the NPT was drafted in the 1960s. The Additional Protocol should help, but more needs to be done. The Treaty needs sustained attention and innovative thinking, during the Conference and beyond. Our assumptions need constant checking if the NPT is to continue to be helpful in the critical task of stemming nuclear proliferation.”

Mr. ROYCE. I will now turn to the Ranking Member for his opening statement, Congressman Sherman.

Mr. SHERMAN. Thank you, Mr. Chairman, and thank you for holding these hearings on the seventh NPT Review Conference scheduled to begin in just a few days in New York. I want to thank our former staffer of this Committee, Assistant Secretary Steve Rademaker, for testifying on behalf of the Bush Administration about its plans and agenda for the conference.

The NPT has served as one of the greatest diplomatic bargains of all time. The non-nuclear states, with remarkable few exceptions, came to agree to never develop nuclear weapons. Five states were recognized as the only legal nuclear powers, and in return they gave promises to eventually reduce their nuclear arsenals, and to allow access to nuclear technology for peaceful uses, particularly power.

This basic agreement served the world and U.S. interests well, at least until a few years ago. Now we have the important task of looking for cracks that have appeared in the last few years and attempting to fix them.

Unfortunately, because of a lack of U.S. vigilance, we have failed to prevent two of the world’s most dangerous states, both signatories to NPT, from coming close to or actually developing nuclear weapons. I am, of course, referring to North Korea and Iran.

With respect to NPT, the former, North Korea, came on board rather late, never took the treaty very seriously, left the treaty after it made a few bombs illegally, and developed several means to make more bombs, and is yet to face any punishment.

The worst we have been able to do is we have convinced the North sometimes to sit around a six-sided table to hear us beg them to abandon their programs without, of course, any consequences if they fail to do so. So I guess we have inflicted some discomfort on a few of their diplomats.

The absolute refusal of this Administration to view China’s subsidy of North Korea and its nuclear weapons program as a trade issue between the two countries is creating a circumstance where a nuclear weapon could be purchased by terrorists and smuggled into the United States, but our tennis shoes coming into this country today are safe from anyone who would wish to put national security above the profits of importing corporations.

Shifting to Iran, it hid its program for about 20 years, and then when the extent of the program was brought to light has argued that their centrifuges and other equipment are legal because of article IV of the treaty which, of course, provides a right of peaceful development of nuclear energy, and the Iranian claim is that this allows them to have the full fuel cycle.

The recent experiences suggest a number of reforms in NPT are necessary and that is the topic of our hearing today. However, I want to note with regard to Iran and North Korea, the two most pressing concerns as far as proliferation, the failure is not just a failure of NPT, but a failure of two successive Administrations,

both Clinton and Bush, to develop any discernable strategy to pressure and/or entice the North Koreans or the Iranians to abandon their nuclear weapons program.

Time is running out. We still do not have a strategy. We are unwilling to provide carrots. We are certainly unwilling to provide sticks, and we are unwilling to get our allies and trading partners to do likewise. The effect is we will have hearings, we will have conferences, and whether a nuclear weapon is smuggled into this country from Iran or North Korea in the next decade is a risk that is receiving way too little attention, the attention of this Subcommittee perhaps, but never trumping the desire of the Administration to focus on other issues.

Let me say that we are not going to get major breakthroughs on NPT's shortcomings, you know, this May. The conference has no agenda. There are certainly going to be disagreements, and it is a short 4-week conference. But we need to begin laying the groundwork to deal with some key issues.

First is the article IV loophole. It is unbelievable that Iran has been able to argue and persuade some that it can build the means to develop nuclear weapons under the peaceful use provision in the treaty. The U.S. and like-minded countries have to prevail on NPT members, and especially the IAEA board that article IV does not allow a country to come within literally a few days of developing a bomb.

Second, we need to control fissiable materials, and I thank the Chairman for letting me go on and on. I will try to be briefer in our next hearing.

Mr. ROYCE. Deal.

Mr. SHERMAN. Okay. The deal that does not benefit the witness who will not be here for our next hearing, but let me continue.

We have got to control fissiable material. Closely related, we need to ensure that there is not an excess of highly-enriched uranium or plutonium, and that the means to develop these materials out there for use by those who want weapons, in addition to cleaning up former Soviet and other loose material. The U.S. should champion the adoption of a fissiable material cutoff treaty, or an NPT amendment to prevent states from making additional weapons-usable material. We need to build on Security Council Resolution 1540 to expanding binding and universal controls on nuclear relevant technology which cannot be safeguarded.

Mr. ROYCE. Thank you.

Mr. SHERMAN. At that point I do have a few more points to make but I will make them as part of my question time. I thank the Chairman for his indulgence.

Mr. ROYCE. I appreciate that from the Ranking Member. Do we have other opening statements by any of the Members? Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman, and I will keep mine very brief.

Mr. Secretary, I appreciate your being here and am very eager to hear your testimony.

My concern is that the NPT, which has served relatively well for several decades, is now showing its age, that the essential bargain of the NPT—that we would help nations develop nuclear energy if they agree to forswear developing the bomb—is no longer suffi-

cient in and of itself to meet the current challenges. It is simply too easy to proceed along the path toward development of nuclear energy, opt out of the treaty, make a right turn, and develop the bomb.

I think as a practical matter, notwithstanding the capabilities of intelligence gathering, which are limited, if other countries are able to produce a fuel cycle there is no way of preventing them from getting the bomb with any confidence.

I have been looking to this conference to see what leadership we would bring to bear to strengthen the NPT, or are coming up with an additional framework that would give teeth to the NPT or some new stronger regime for controlling access to the fuel cycle.

There have been a number of proposals that have been out there. Dr. ElBaradei made one some years ago about providing an international bank for uranium under international scrutiny and control where we deliver the fuel, we take back the spent fuel. I do not know if that is the right model or what the right model is. But I have been concerned as we get closer and closer to the review conference that we do not have a clear answer to the question as a government, and that we may not be in a position to lead and champion reform and improvement of the NPT beyond incremental additions to the protocol.

I think this is an incredibly important juncture that we are at, and I happen to share the conviction expressed by the President and by Senator Kerry during their first Presidential debate, that nuclear terrorism is the number one threat we face.

But if that is true, we should be devoting the number one share of resources to dealing with that problem, and the lethargic pace at which we are cleaning up nuclear material in the former Soviet Union, the amount of resources we are devoting to other less immediate threats, like national missile defense, tells me that we are not really treating this as the number one threat.

So I am eager to hear what the U.S. agenda is at the NPT Review Conference, and whether the U.S. is prepared to really boldly lead in this area, and what the U.S. is preparing to offer those countries who feel they have every right to the fuel cycle.

I appreciate the Chairman calling this hearing and the last hearing. I think you have really invigorated the Subcommittee into addressing this issue, and I yield back the balance of my time.

Mr. ROYCE. I appreciate that. We will go to Mr. Poe.

Mr. POE. Thank you, Mr. Chairman.

It seems the NPT is an example of a treaty that appears to be voluntary. Like most treaties, international treaties, countries of honorable character such as the United States abide by it, we abide by it. Other countries do not. Iran, North Korea have signed it. They seem to be rogue nations that have no international honor, and I am always a bottom-line guy, and the issue is: What does the United States plan to do about reinforcing the NPT, and more specifically, about Iran and North Korea with their development of nuclear weapons?

I am very interested and would like to know what our plan is in those two areas.

Thank you, Mr. Chairman.

Mr. ROYCE. I thank the Members of the Committee. We are now going to hear from Stephen G. Rademaker. He is Assistant Secretary for Arms Control at the State Department. In addition to his duties at the Bureau for Arms Control, Secretary Rice has given Mr. Rademaker the duties of Assistant Secretary for Nonproliferation.

Before joining the State Department, Mr. Rademaker worked as the Chief Counsel for the Committee on Homeland Security, and as the Deputy Staff Director and Chief Counsel for our own Committee on International Relations.

Steve, welcome back, and thank you for the good work that you did on this Committee and that you continue to do.

**STATEMENT OF THE HONORABLE STEPHEN G. RADEMAKER,
ASSISTANT SECRETARY, BUREAU OF ARMS CONTROL, U.S.
DEPARTMENT OF STATE**

Mr. RADEMAKER. Mr. Chairman, it is a great pleasure for me to be here today, especially after your very successful Chairmanship of the Africa Subcommittee, I am delighted that you are now Chairman of this Committee, and in a position to exercise oversight jurisdiction over the part of the State Department in which I work.

I would also say to Mr. Sherman that I am well aware of your longtime commitment to combating the problems of terrorism and proliferation, and I was very pleased to see your appointment as Ranking Member of this Subcommittee.

I have a prepared statement which has been submitted for the record. Rather than simply read it to you, I thought I would just offer a few remarks at the outset, and then respond to questions that the Members of the Subcommittee might have.

The comments that I heard in the opening statement, the opening statements by Members, suggests to me that maybe a key point I need to make at the outset is to describe a little bit about the forum that is convening in New York next week.

This is a review conference consisting of all the state parties to the Nuclear Nonproliferation Treaty, and there are almost 190 members of the Nuclear Nonproliferation Treaty. There are only three countries that have never ratified the Nuclear Nonproliferation Treaty.

What that means is that the forum next week is essentially the U.N. General Assembly. It is the U.N. General Assembly minus three or four countries, those that have never joined the treaty and North Korea because they have announced their withdrawal from the treaty.

But unlike the U.N. General Assembly, this is a body that makes decisions by consensus, and so that means as a practical matter every single country present at this meeting next week will have a veto over any actions that might be taken at the meeting.

Iran will be at the meeting. So to the degree there is a hope that we could get a wonderful statement out of this conference denouncing Iranian violations of the NPT, we need to be aware that Iran can veto language that they do not accept. I think that is a practical constraint on what can be achieved with regard to denouncing violation of the treaty by Iran. We simply have to recognize that.

That said, it is our intention to focus our national presentation and our diplomatic work connected with the conference on the problem of compliance with this treaty because we think the treaty is under threat by the problem of noncompliance.

In opening statements, Members referred to the problem of Iran and the problem of North Korea. These are well known. There is also the problem of Libya. It is a problem that we think has passed, but Libya was also violating the NPT. It had a covert nuclear weapons program which was detected, and about a year and a half ago Ghadafi, confronted with the evidence of what he was doing, decided to admit what he was doing and stop, and so we believe we have got that particular violation under control.

There was also the problem of Iraq, and we believe we have Iraq's violation of the NPT under control.

Behind the problems of North Korea, Iran and Libya, it turns out, was the A.Q. Khan network, a covert procurement network for countries that were interested in violating their obligations under the NPT. That network has been exposed. We believe we have rolled it up, but it is an alarm bell to all of us that such a network could exist. And even if we have successfully rolled up the A.Q. Khan network, we have to be worried that similar networks could emerge in the future.

So all of these are elements of the compliance problem that we think poses a fundamental threat to the NPT, and we think this is the most important, the most urgent issue to be addressed at the conference.

Another major theme that the U.S. will stress there is the record that we bring in the area of nuclear nonproliferation. We think we have a number of very important accomplishments and a number of very important proposals, and we intend to talk about these at the conference.

Accomplishments include things like the establishment of the Proliferation Security Initiative which played an instrumental role in the exposure of Libya's covert nuclear program, and in the exposure of the A.Q. Khan network. The PSI, which now has over 60 participants, has been a very successful initiative that reenforces the prohibitions of article II of the NPT.

There is the U.N. Security Council Resolution 1540, which requires all nations to adopt export controls with respect to not only nuclear weapons but the technologies and components that would be relevant to the establishment of a nuclear weapons program, as well as other weapons of mass destruction programs. It also requires all states to criminalize the development of such weapons within their territory, so we think that has made a successful contribution to the nuclear nonproliferation regime. It is something outside of the NPT, but it contributes to the NPT regime.

Finally, we want to talk about some of the proposals we have made that are now under consideration. The most important of these was the proposal made by President Bush on February 11 of last year to address the fuel cycle issue that a number of the Members referred to in their opening remarks.

Mohamed ElBaradei has a proposal to address the problem of further diffusion of the fuel cycle. President Bush has a proposal. I saw in Henry Sokolski's testimony that will be presented on the

second panel, that he has a proposal. There is a growing recognition that the fuel cycle is a proliferation problem that needs to be addressed, and there are proposals on the table.

The Bush Administration naturally supports President Bush's proposal, and we will be talking about it. The President's proposal is to essentially work through the Nuclear Suppliers Group to end transfers of enrichment and reprocessing technology to countries that currently do not have such technology, and we will be talking about why we think this is a sensible measure to be adopted.

We are not calling for action by the NPT Review Conference on this proposal. The proposal did not ask for action by the NPT or within the context of the NPT. It asks for action by the Nuclear Suppliers Group, and we are working with the Nuclear Suppliers Group to implement the President's proposal.

A final major theme for the United States will be to address a concern that is often voiced at these review conferences, and that is the concern that the United States and the other nuclear weapon states are not moving fast enough in the direction of nuclear disarmament. You have before you a folder that contains some of our materials that we prepared for the conference. One of the documents addresses article VI of the NPT, which is the article of the NPT that relates to nuclear disarmament. And so we will be talking about our record which we believe is very strong, and probably stronger than that of any other government in the area of implementation of article VI of the NPT.

So those are the things that we intend to talk about. Our goals for the conference will be, first, to seek a reaffirmation by all of the parties of the importance, the critical importance of the NPT to international peace and security. We would like, if possible, a recognition by all the state parties of the threat to the treaty regime posed by the problem of noncompliance; a recognition of the need to act in cases of noncompliance.

In addition, if we could get an endorsement of the Additional Protocol as the new standard for safeguards under article III of the NPT, that would be very good.

We think there are some questions about how article IV of the treaty should be interpreted, and we would like to promote the interpretation that the benefits of peaceful nuclear cooperation should only be made available to those countries that are in compliance with their nonproliferation obligations under the NPT. We think that is a straightforward proposition that is clear from the language of article IV of the NPT, but it is in fact a controversial proposition, and so we will be speaking about that at the conference.

And there is also the problem of withdrawal from the NPT. This has never in the past been a problem, but the North Korea case presents itself, and we expect there will be some discussion about what could be done to discourage withdrawal in the future. Of course we would very much favor any proposals to discourage withdrawal in the future by other parties to the NPT.

These are things we would like. I should stress that this does not mean that we view the measure of success of this conference in terms of whether we get an agreed final document that spells out the things that I just mentioned.

In fact, this is the seventh review conference to take place under the treaty. There have been six review conferences in the past. Three of those ended without agreement on a final document. It is very difficult in a forum that is essentially the U.N. General Assembly to get consensus on a final document. That does not mean that three of the six review conferences have been failures.

We do not believe that this one will be a failure if there is no agreement in the end on a final document. We would like a final document. We would like it to address some of the matters I just mentioned, but if in the end one or two countries prevent agreement on a final document, the fact that with one or two exceptions there has been consensus achieved in favor of some of the ideas that I just enumerated, that to us would be a successful conference.

We have been working hard in the run-up to this conference. We have been engaging in consultations all over the world. I, myself, was in South America 2 weeks ago consulting with a number of countries there. We have sent similar teams to Europe and Asia to engage in consultations, and to line up support for the ideas that we are going to be promoting at the conference.

We have an active public diplomacy effort. This folder that is in front of you will be handed out to everyone in New York. It contains our materials. In addition, I have been speaking to the press and to NGOs, to enhance understanding of what we are seeking to achieve.

So we have worked hard. The conference begins next week. It will go on for 4 weeks, and we will do the best we can to turn this into a success for the nuclear nonproliferation regime and for United States nonproliferation policy.

With that, I think I will end my comments and respond to any questions that the Members might have.

[The prepared statement of Mr. Rademaker follows:]

PREPARED STATEMENT OF THE HONORABLE STEPHEN G. RADEMAKER, ASSISTANT SECRETARY, BUREAU OF ARMS CONTROL, U.S. DEPARTMENT OF STATE

Thank you, Mr. Chairman, for the opportunity to preview the Administration's approach to the NPT Review Conference, which opens next week at the United Nations.

The President's National Strategy to Combat Weapons of Mass Destruction lays out a comprehensive approach for countering the threat that the world's most destructive weapons could fall into in the hands of the world's most dangerous regimes or terrorists. In doing so, the National Strategy recognizes the valuable contribution of multilateral arms control and nonproliferation regimes to international peace and security. The Nuclear Non-Proliferation Treaty (NPT) serves as a critical legal and normative barrier to nuclear proliferation.

The NPT entered into force in 1970. Today its membership is nearly universal, with close to 190 parties. The United States continues to emphasize the importance of universal adherence to and full compliance with the NPT. When the Treaty was conceived there were five nuclear weapon states and many were predicting as many as 20–25 additional states with nuclear weapons within the following 20 years. The NPT was the first major step to establish a global norm against further nuclear weapons proliferation. Thirty-five years later, there remain only a handful of additional states with nuclear weapons rather than the 20–25 once predicted. The threat of nuclear proliferation is still with us, however. It is compounded today by the determination of terrorists to acquire weapons of mass destruction.

We are especially troubled by the reality that several states seeking nuclear weapons in recent years have done so in violation of their solemn NPT undertaking to forswear nuclear weapons. Even worse, these NPT states party have close ties to terrorist organizations. As President Bush has stated on numerous occasions, the

greatest threat facing humanity today is the nexus of terrorism and weapons of mass destruction.

NPT parties must recognize the challenges posed by today's security environment, and in particular, by the threat of noncompliance with the Treaty's nonproliferation obligations. We must act to ensure that the NPT continues to play an effective role in thwarting nuclear proliferation in the 21st century. Failure to do so will not only weaken the Treaty, but also undermine global security. Technology is spreading and illegal procurement networks threaten to thwart efforts to keep nuclear and other weapons of mass destruction out of the hands of those determined to acquire and use them.

The seventh conference to review the operation of the NPT begins next week in New York. The central message of the United States, as stated by President Bush in his March 7 statement on the 35th anniversary of the NPT, will be to urge strong action to confront the threat posed by NPT noncompliance. The President said such action was necessary to preserve and strengthen the Treaty's nonproliferation undertakings; he called on all parties to act promptly and effectively.

NPT parties must demand that existing cases of noncompliance be resolved.

In recent years, four NPT parties have sought nuclear weapons in violation of their nonproliferation obligations. In December 2003, Libya made the strategic choice to renounce weapons of mass destruction and to fulfill its obligations under the NPT. Iraq's new government has also pledged to honor international nonproliferation conventions.

But North Korea continues to threaten the world. Since the last Review Conference in 2000, it expelled international inspectors, announced its withdrawal from the NPT, and, most recently, claimed to have manufactured nuclear weapons. The Conference should condemn North Korea's egregious behavior. North Korea must cease and declare all past nuclear activity and dismantle its nuclear programs completely, verifiably and irreversibly. We will seek support for a continuation of the Six Party Talks as the current best approach for resolving this issue peacefully through negotiation.

Since 2000, we also learned of the numerous NPT violations committed by Iran, in the course of that country's clandestine pursuit of nuclear weapons over the past two decades. Iran refuses to abandon its effort, despite numerous IAEA Board of Governors resolutions calling on Iran to adhere to its obligations and fully disclose its activities. Iran will attend the Conference and will be a great source of controversy and division. The Iranian regime will attempt to justify its two decades of lying and of failing to disclose its nuclear activities, while claiming the right to have sensitive nuclear technology despite its violations. Of course, Iran has no legitimate need for this technology. We will document Iran's long history of deception and violations. Any casual reading of IAEA reports and resolutions dealing with Iran's safeguards obligations over the past few years will reveal countless failures, breaches and violations. Iran hid behind the NPT for many years while it claimed to have only a peaceful nuclear program. The United States supports the EU-3 effort to obtain certain objective guarantees that Iran is not trying to use a civilian nuclear program to provide cover for a weapons program.

The Review Conference should address ways to strengthen the NPT against future violations. We will encourage a discussion of the Treaty's nonproliferation undertakings and of actions parties can take to ensure compliance with their obligations. We will suggest ways to hold violators accountable. We will insist that enforcement of the Article II prohibition on the manufacture of nuclear weapons must begin at an early stage of the process leading to such manufacture.

Important work to adapt the broader nonproliferation regime to today's challenges is already underway in fora such as the IAEA, the G-8, the Nuclear Suppliers Group, and the UN Security Council. These efforts must yield more effective tools to deter and stop future nuclear proliferation. The Review Conference can assist by providing a strong political boost to this work. To this end, the United States will highlight and build support for the President's initiatives to combat proliferation.

In remarks delivered at the National Defense University in February 2004, President Bush called for passage of what became UN Security Council resolution 1540, which was adopted on April 28, 2004. This resolution requires all states to establish effective controls over material, equipment and technology related to weapons of mass destruction. In this speech the President also called for an expansion of the Proliferation Security Initiative, which is designed to promote international cooperation to interdict shipments of WMD materials consistent with national legal authorities and international law and frameworks. We will urge support for both of these initiatives.

The United States also is seeking to strengthen the IAEA in combating nuclear proliferation. We are supporting universal adherence to the IAEA Additional Pro-

toocol and urging the creation of a special committee of the IAEA Board of Governors to consider ways to improve verification and enforcement of safeguards agreements. At the Conference, we also will highlight the responsibility of the Security Council in dealing with nuclear proliferation cases that endanger international peace and security. The Council must be more active in discharging its role in this area.

Nuclear fuel cycle issues will be a prominent topic at the Conference. As you know, enrichment and reprocessing can be used in peaceful nuclear programs. But some NPT parties have sought this technology secretly in pursuit of nuclear weapons and in violation of their Treaty obligations. Iran now insists on retaining the enrichment capabilities it acquired through Treaty violations. The resulting issues have been a matter of considerable international debate over the last two years. In his remarks on February 11, 2004, President Bush highlighted the inherent vulnerability of the NPT with regard to certain nuclear technologies and called on the members of the Nuclear Suppliers Group to refuse to sell enrichment and reprocessing equipment and technologies to any state that does not already possess full-scale, functioning enrichment or reprocessing plants. Both United Nations Secretary General Annan and IAEA Director General ElBaradei also have recognized the need to reduce the proliferation risk of these technologies.

While many agree on these dangers, there is no consensus yet as to the ultimate solution. Of course, the economics of today's fuel cycle do not support the entry of additional countries into the enrichment or reprocessing business. There is very little interest in reprocessing at the present time; and no NPT non-nuclear-weapon state without a full-scale, functioning enrichment plant has plans to pursue such a capability, except of course for Iran and North Korea who did so in violation of the Treaty. The fact is countries with enrichment facilities can adequately handle the foreseeable demand for reactor fuel. NPT parties without these facilities can continue to enjoy the benefits of peaceful nuclear energy without possessing enrichment and reprocessing facilities. Meanwhile, existing technology holders must clamp down to ensure against any leakage to proliferators. At the Conference, the United States will raise awareness of the need for measures to strengthen the NPT by closing this loophole. Multilateral action on this issue is being considered in the G-8 and the Nuclear Suppliers Group.

While many parties will join us in highlighting the central threat that noncompliance poses to the Treaty, some non-nuclear weapons states will draw attention to what they claim is the slow pace of progress on the NPT's nuclear disarmament-related obligations. For its part, the United States will promote its excellent record on nuclear disarmament, including the reductions of U.S. operationally deployed strategic nuclear warheads. We initiated these reductions unilaterally, and legally obligated ourselves to make them under the Moscow Treaty of 2002. By 2012, we will have 80% fewer strategic warheads deployed than at the end of the Cold War. We will also highlight at the Review Conference the \$9 billion we have spent in destroying the WMD remnants of the former Soviet Union through such efforts as the Nunn-Lugar program. Along with our partners in the G-8 Global Partnership, we pledged in 2002 to raise an additional \$20 billion for such programs over the next ten years, including \$10 billion to be provided by the United States. We also will correct misunderstandings of the Nuclear Posture Review in order to draw attention to the President's path-breaking policies to reduce U.S. reliance on nuclear weapons. These policies are not drawing the attention and support they deserve.

Some of the concern expressed to date in the NPT review process about the pace of nuclear disarmament has dangerous overtones. Some states suggest that strengthening the Treaty's nonproliferation provisions should be linked to greater progress on nuclear disarmament. This point of view is fraught with risks, not least of which is to appear to excuse proliferation by blaming those who lawfully possess nuclear weapons under the NPT. Such thinking is confused and wrong. If it is accepted, it weakens nonproliferation. It must be vigorously countered. It is particularly ironic that such linkages are being espoused at a time of historic reductions in nuclear weapons by the United States and Russia.

We are using several public diplomacy tools to advance our objectives, including meeting with the press and NGOs, the publication of several pamphlets, the distribution of an on-line journal overseas, and other means. An informed international community is essential if the NPT's rules against nuclear proliferation are to be preserved and strengthened.

There will be differences at the Conference among parties; some will be quite substantial. It is important for all states party to remember that the Review Conference is not an implementing body and that any decisions will not be legally-binding. However, it can serve to focus world attention on current challenges and to build political support for appropriate remedies, many of which require action in other international fora. With this in mind, the United States will encourage all partici-

pants not to allow disagreements to undermine the important task of reinforcing the role of the NPT in building a safer and more secure world. A weakened NPT would increase the dangers facing all nations. With good will and realistic expectations among the participants, the United States believes the Conference can help to build confidence in the NPT and to promote broader international cooperation in countering proliferation.

Mr. ROYCE. Thank you, Assistant Secretary Rademaker.

Let me begin with how you feel the review conference will deal with Iran's apparent determination to go forward with developing nuclear weapons. What do you think that Iran is likely to try to accomplish in the conference, and how will the United States try to counter Iran's likely argument that it is entitled to enriched uranium under the treaty?

Mr. RADEMAKER. I think Iran comes to this conference very worried that its diplomatic position could be set back. I have mentioned how we have been working this issue very hard diplomatically. Iran has been working very hard diplomatically as well, and they are seeking to line up support for their position on some of these issues which, of course, is 180 degrees from where we are.

Iran disagrees with the idea that anything should be done to restrict their access to uranium enrichment technology. They vigorously opposed the President's proposal on this, Mohamed ElBaradei's proposal on this, any proposals to limit their ability to establish uranium enrichment capability.

Iran would strongly differ with our interpretation of article IV of the treaty. Article IV is the provision of the treaty that provides for peaceful nuclear cooperation. Their view is that unless they have been found to be in violation of the treaty, they have a full entitlement to reap the benefits of peaceful nuclear cooperation.

And obviously the IAEA has caught Iran in violation of its safeguards agreements, and, we believe, in violation of article II of the NPT as well. But Iran's argument on that is that their case is still before the jury, and until there is a verdict that finds them guilty, they are entitled to continue to receive the benefits of peaceful nuclear cooperation.

Needless to say, we strongly disagree with that, but Iran takes a different view, and they will be seeking to line up support for their view.

A majority of the countries that will be present in New York are members of the Non-Aligned Movement, and they come to these questions with concerns about any sort of limitations on their right to receive technology.

And so they are somewhat receptive to the arguments that Iran makes, that restrictions on the right of a country like Iran to receive uranium enrichment technology might also apply to them, and therefore they have an interest in beating back proposals such as the one made by President Bush and the proposal made by Director-General ElBaradei regarding the fuel cycle.

So Iran will be a major subtext of all of the discussions that take place in New York. I am not sure how much the discussion will, in the first instance, be about Iran; in other words, how often delegations in their presentations will mention the word Iran, but the subtext of much of the conversation will be Iran.

Mr. ROYCE. What is the chance of getting some consensus, in your view, or getting some critical mass behind the argument that

originally the sense of the treaty was that it precluded countries from reprocessing plutonium and enriching uranium, it precluded them basically from getting a position where they are just short of possessing nuclear weapons?

If you go to the original spirit of the treaty, many make the argument that things have been re-interpreted over time to put us in this position where we are today, and what is the chance that we could get a consensus on that?

Mr. RADEMAKER. If you mean literally a consensus, meaning no dissent, as I noted at the outset, Iran would have to join that consensus.

Mr. ROYCE. We understand the dissent. Critical mass behind such a——

Mr. RADEMAKER. A near consensus perhaps——

Mr. ROYCE. Yes.

Mr. RADEMAKER [continuing]. Is what you are asking about. I guess we will have to see how the conference unfolds. But if you are asking me to predict today, I think we could get a near consensus on the threat posed to the treaty by the problem of non-compliance, and by the problem of withdrawal from the treaty as illustrated by North Korea, and as could be illustrated in the future by countries such as Iran. Our greatest fear is that Iran will follow, ultimately, in North Korea's footsteps.

I think there will be little constituency at the review conference for withdrawal from the treaty. On the concept of the problem of noncompliance—the need to address noncompliance—we may be able to achieve a near consensus.

I think on more concrete proposals such as specific restrictions on availability of the fuel cycle, I think it will be much more difficult to achieve a near consensus. As I said, there are many other countries, many of which have no secret design to, or secret intention to develop nuclear weapons, but still they philosophically disagree with restrictions on their right to receive high technology. They worry that this is part of a larger effort designed to keep them poor, and countries like the United States rich.

Mr. ROYCE. How confident are you in the IAEA's full-scope safeguards? You know, the Additional Protocol there, does it really give you that much more, and can these agreements ultimately just give us a false sense of security?

Mr. RADEMAKER. We support the Additional Protocol. The United States Senate has ratified the Additional Protocol, and implementing legislation is now either before Congress or soon will be before the Congress. We urge all other countries to sign and ratify the Additional Protocol because we do think it enhances our confidence in compliance with the treaty.

I would not say that it is fool proof, and so vigilance will still be required even in the case of countries that have brought the Additional Protocol into force. Iran has signed the Additional Protocol. They have not yet ratified it, but they have promised to apply it provisionally. I think that is good, but it does not lessen my apprehensions about Iran's intentions, and it does not lessen my belief that we need to remain very vigilant about Iran and we need to devote our own intelligence assets to keeping track of what happens there. Even though the IAEA is very good and we have con-

fidence in its determination to implement the Additional Protocol, the reality is that we believe the Iranians are very determined as well, and we are not 100 percent confident that they will be unsuccessful if they seek to outwit the IAEA.

Mr. ROYCE. And lastly, what is the Administration's view of other nuclear states' commitment to nuclear disarmament? I am especially interested in China. We do not hear much debated on this front anywhere, but it seems problematic, and I just thought I would ask the Administration's view on that.

Mr. RADEMAKER. That is an interesting question you put. It is always the case that one of the major topics of conversation at these review conferences is the alleged failure of the five nuclear weapon states to move fast enough in implementing article VI of the treaty.

I invite all of you to read our brochure on article VI which puts forward the case as to why we are in full compliance with—

Mr. ROYCE. Right.

Mr. RADEMAKER [continuing]. Our obligations under article VI. This debate will take place, and I would expect that as part of the debate most of the five—there are five nuclear weapon states, most of the fire will be directed at the United States.

Mr. ROYCE. This is one of the things that I find a little perplexing because for those of us that are monitoring China's investment in this area, it is interesting that it is not on the radar, you know, internationally. You do not hear a lot about it, you do not read a lot about it, and yet there is such a robust effort there.

Mr. RADEMAKER. Well, I think if you look in this brochure, it contains—it is in the folders—some graphs showing what is happening with U.S. nuclear warheads and what is happening with U.S. delivery systems.

Mr. ROYCE. Right.

Mr. RADEMAKER. I think we have a very good record in this area. It is easy to demonstrate our record not only in terms of the treaties we have signed, but also in terms of what is actually happening with our nuclear forces.

The same is true of Russia's nuclear forces. The trend line for them is the same as ours. Britain and France, I think, cannot demonstrate the same downward trend, but no upward trend. In the case of China, of course, the trend is an upward trend, and—

Mr. ROYCE. And I wanted to ask you about that because there is no shortage of countries eager to berate the United States, but I just have not seen analysis done that connects this issue to China's development of nuclear capability. It seems that it has been left out of the debate, so I wanted to ask you about the knowledge that we have in terms of the expansion of their capabilities.

Mr. RADEMAKER. I did not come today prepared to present a briefing on what is happening with Chinese nuclear forces. Let me just make a general observation.

We are a nuclear weapons state, we are one of five nuclear weapon states, so we do not come to this conference planning to talk much about the problem of noncompliance or slow compliance with article VI.

Mr. ROYCE. Right. Yes. I understand that.

Mr. RADEMAKER. Many of the other countries will come to the conference intending to talk about that.

Mr. ROYCE. And they continue to talk about the United States.

Mr. RADEMAKER. And I guess I will just make the observation that it is ironic that many of those countries will focus on the United States in their criticisms, when for the United States the trend lines are downward. For reasons that only they can explain, they will not focus criticism on other countries where the trend lines might be different.

Mr. ROYCE. I have noticed that.

We are going to go to the Ranking Member, Mr. Sherman. Thank you very much, Mr. Rademaker.

Mr. SHERMAN. Perhaps one reason why we tend to get beat up on international affairs like the one you will be attending is that we are so reluctant to link trade, aid, World Bank loans, or investment. We are a punching bag, that is to say, you hit us, we do not hit back, nor do we reward you for not hitting us.

I think you probably have the most important, arguably the most important portfolio in our Government. Preventing nuclear proliferation is perhaps the most important Federal function, and yet you are sent out there with nothing more than your personal intellect and persuasive charm.

Are you in any way able to even hint that any decision of the U.S. Government that other countries might care about dealing with aid, trade, dealing with investment, dealing with how we would view things involving the—you know, Kuwait didn't—discovered that it was necessary to be on good terms with the United States to preserve their territorial integrity.

Are you able to hint that anybody in our Government cares what you do and will in these other more important areas take into account what they do with regard to nuclear proliferation, IAEA, in this conference?

To put it another way, are you as lonely as the Maytag repairman?

Mr. RADEMAKER. No, I would not analogize myself to the Maytag repairman.

We do have some tools, and frankly, many of these tools were given to us by the Congress, but they are useful tools, and we use them to underscore to other countries that there are costs of not being vigilant with respect to proliferation.

I am referring specifically to the sanctions laws that we implement. But as a Government, we spend a great deal of effort trying to—

Mr. SHERMAN. The sanction laws like the ones that we have waived with regard to Iran? Perhaps there is a more offending country you would want to identify, but we just let them go forward with the World Trade Organization application, so I was—with sanctions like the Government of Iran, I would like to apply to the World Trade Organization.

Let me give you a hypothetical. Let us say Country X just took it upon itself to rally absolutely everyone at this conference in New York against the United States, passed out buttons, "A nuclear Iran is a better world," whatever, would they have any reason to think—I mean they themselves aren't developing nuclear weapons. You cannot impose sanctions on them under the statutes you have talked about. Is there any reason for them to think that their rela-

tions with the United States would be impaired by such a campaign?

Mr. RADEMAKER. I do not think anyone in New York is going to be handing out those buttons, but I do—

Mr. SHERMAN. There are going to be countries there undercutting your efforts and creating a world in which my constituents could get blown up by an Iranian bomb. They will not be handing out buttons. Do not believe that my facetious manner of asking the question is—you know, it is there just to illustrate a point. It is not there to undercut the seriousness of the question.

Mr. RADEMAKER. Well—

Mr. SHERMAN. You will face enemies in New York, sir, and will they act with impunity?

Mr. RADEMAKER. This is a hard question, and I think it leads to a hard answer.

Yes, there will be countries that do things as a diplomatic matter that will have the effect of benefitting Iran's position when it comes to their activities in the nuclear area, and seeking to preserve their flexibility to pursue the nuclear fuel cycle and to postpone their day of reckoning for having violated their obligations under safeguards agreements, and under the NPT.

But these countries have names, you know, and some of them are favorites of the Congress. Egypt, for example, has for a long time presented difficult diplomatic obstacles for us at NPT Review Conferences. Egypt benefits from congressional earmarks and foreign assistance. So it is easy for you—

Mr. SHERMAN. Well, this is the first time that—thank you for bringing that to our attention, and I can think of no better reason to reduce that earmark. And I think that the Government of Egypt should be made aware that Congress will be very aware of whatever—and I am going to ask you to send us a report to this Committee as to exactly what Egypt does in New York in May. I look forward to that report. Please continue.

Mr. RADEMAKER. My only point, and I do not mean to single out Egypt because I do not think it is Egypt's intention to assist the Iranian nuclear program, but they have an agenda under the NPT which is very different from our agenda, and there are some other countries, and I will not mention additional names, but some of them are also countries that command great support in the Congress, not because of the positions they take on the NPT, but—

Mr. SHERMAN. Could you please mention some—do not be cagey with us. Why do you not name these other countries?

Mr. RADEMAKER. I think it would be better, actually what would be better is for us to wait—rather than make predictions about who will present difficulties in New York—what would make more sense is to see how things unfold in New York.

Mr. SHERMAN. Okay. Can I count on a letter from you describing who is helpful, and particularly which countries are unhelpful to us in New York with a special section of that letter dealing with the activities of the Egyptian Government?

Mr. RADEMAKER. Certainly.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM THE HONORABLE STEPHEN G. RADEMAKER TO
QUESTION ASKED DURING THE HEARING BY THE HONORABLE BRAD SHERMAN

I appreciate your interest in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) Review Conference and thank you for your question during my April 28 testimony before the House International Relations Subcommittee on International Terrorism and Nonproliferation. I wanted to take this opportunity to respond to your request for information on the views of other countries participating in the Review Conference, which was held in New York May 2–27, 2005. We are prepared to offer a description and appraisal of the actions of others, but given the sensitive nature of such an evaluation we would prefer to brief you and/or staff privately or in a closed session of the Subcommittee if that is the desired setting. We will be pleased to schedule this briefing at a mutually acceptable time. Please let me know if I can be of further assistance.

Mr. RADEMAKER. My larger point is that it is a complex world out there, and countries that present problems for us in one area sometimes are critically important friends of the United States in other areas, and that is the view of not only the Executive Branch as many of these countries have strong champions with them in Congress as well.

Mr. SHERMAN. We expect and do not need a report to know that our enemies are hurting us. When our friends hurt us, that is when you need to bring it to our attention, and with the Chairman's indulgence, though, I would like to go off in another direction.

We obviously need to punish violators. We need to prevent states from leaving NPT. We need a number of reforms of NPT, and at the same time I wonder whether we are willing to make concessions to the world in order to get them, particularly when we abrogate the ABM treaty, failed to ratify the CTBT, when we seek to develop low yield nuclear weapons, to try to develop the bunker buster. We have ratified the Additional Protocol. There are those who say we have not implemented that ratification.

What are we willing to do in New York to say we want this treaty modified, we want it properly interpreted, we want to achieve its purposes? What concessions are we willing to make, and in particular, what are we willing to do to show that we are actually implicating the Additional Protocol that is a ratified treaty of this Government?

Mr. RADEMAKER. On the Additional Protocol, the United States has signed it. The Senate has given its advice and consent, and implementing legislation is being developed. I think it was before the Congress last year, and if memory serves me correctly, it is about to be transmitted again to this Congress.

So I do not think that there is ultimately a question about whether the U.S. will implement its obligations under the Additional Protocol.

Some of the other issues you raised, I think this notion that we need to make—the United States needs to make concessions in order to encourage other countries to do what is necessary in order to preserve the nuclear nonproliferation regime, I believe is a—at best misguided way to think about the problems confronting us. That basically establishes a rationalization for Iran's noncompliance; that a reason like Iran and North Korea is—I mean, I am not impugning—

Mr. SHERMAN. Mr. Secretary, if—

Mr. RADEMAKER [continuing]. You but there are those who will argue even at the review conference that it is understandable why

Iran is doing this, because countries like the United States are not fulfilling their obligations under article VI of the NPT.

Again, there is a brochure in front of you that explains why we are in fact fulfilling all of our obligations under article VI, and if the Committee wants me to, I would be happy to go into that.

Mr. ROYCE. I think we are going to go to Mr. Schiff for some questions so we can get to our second panel.

Mr. RADEMAKER. Okay.

Mr. ROYCE. Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. Secretary, I wanted to follow up on your comments that the President has a proposal, Dr. ElBaradei has a proposal, and others. What has been done to implement the President's policy of ending the transfer of technology by nuclear suppliers, and how—as long as there are the A.Q. Khans of the world—is that going to be an effective answer to the problem?

Does the Bush Administration have a position on the broader possibility of providing fuel in an international setting and reclaiming the fuel? How do we prevent a nation, for example, like Iran that may have its own uranium from developing the technology, developing the material even without the export or the transfer of technology?

It is only a matter of time before many of these countries do it, and all they need to do is get the material. The technology for the bomb itself is pretty primitive. So what is being done by the Administration? Why are we not—if this is the best philosophy, why are we not pursuing it at the NPT conference? Have we just kind of given up on our ability to form a consensus around this proposal?

Mr. RADEMAKER. We do think this is one of the critical challenges threatening the nuclear nonproliferation regime. As I said, we support the President's proposal for addressing this, which is a proposal that the members of the Nuclear Suppliers Group adopt as a policy, that they will not transfer enrichment and reprocessing technology or equipment to countries that do not currently have such technology and equipment. And that is a proposal for consideration within the NSG which is essentially a group of countries that are in the business of exporting nuclear technology, nuclear equipment.

Mr. SCHIFF. Have those countries—

Mr. RADEMAKER. If your point is that—

Mr. SCHIFF. I mean, it looks like Russia, for example, which I assume they are part of this group, has not agreed to this proposal even vis-a-vis Iran. So if we cannot even prevent one of the major suppliers from supplying Iran, what hope is there for this proposal?

Are we doing anything to persuade the suppliers? Are we pursuing other alternatives if that one looks like it is not going to be successful?

Mr. RADEMAKER. We are pursuing the President's proposal vigorously within the Nuclear Suppliers Group, and also within the G-8. And, in fact, last year at the Sea Island, some of the G-8—one of the elements of the agreed statement was that the members of the G-8 would agree to a 1-year moratorium on the transfer of enrich-

ment or reprocessing goods and technology pending deliberations within the NSG on what to do about this matter.

So we have been pursuing it with some success, and I think it is important to distinguish enrichment and reprocessing from other sensitive nuclear technology such as civilian nuclear power.

You mentioned Russia and you say they are unpersuaded. Well, obviously Russia has made a decision that they are comfortable building the Bushehr Nuclear Reactor for Iran, but that is not an enrichment or a reprocessing facility. I think the Russians do understand that enrichment and reprocessing is different than other technologies.

It is especially sensitive because of the capabilities that it would give any country to advance a break-out scenario, to bring themselves to the point of—

Mr. SCHIFF. Well, yes, I mean—

Mr. RADEMAKER [continuing]. Being able to produce the fissile material for a nuclear weapon very quickly should they choose to do so.

Mr. SCHIFF. Well, I assume, though, what the Russians are providing to Iran is of use in their development of the fuel cycle and the development of nuclear weapons or we would not be concerned about the Russian exports.

Mr. RADEMAKER. We told the Russians for a long time that we think it is a mistake for them to engage in nuclear cooperation with Iran. The enrichment facility that—at Natanz, which is the source of a great deal of international concern, was not a Russian-provided facility, and in fact it looks like the critical inputs for that were provided by—at least in terms of the technology and some of the basic components, was provided by the A.Q. Khan network, and not by any member of the Nuclear Suppliers Group.

Mr. SCHIFF. Why are you not pursuing, if you believe the President's proposal is the best one out there, why are you not pursuing it at the NPT review?

Mr. RADEMAKER. As I mentioned in my remarks, we intend to speak about the President's proposal at the review conference. We see it as one of the elements of our overall policy of which we are proud, and we will certainly make the case at the review conference about why the President's enrichments and reprocessing proposal is a good one.

That said, as I pointed out in my very first comment, Iran is at this conference, and has a veto over any decisions that are going to be made. So the idea that Iran is going to agree to a consensus decision at the review conference to deny them access to enrichment when they have invested hundreds of millions of dollars in developing an enrichment capability I think, as a practical matter, we are not going to achieve that outcome at this forum.

And so in fact that is why—I think the President recognized that in his February 11 proposal. His proposal was for action by the Nuclear Suppliers Group, it was not a proposal for action by the state parties to the NPT.

Mr. SCHIFF. My concern is that if we do not lead at the NPT review, no one will. And if we do not come up with a proposal that we can try to forge a consensus, no one will be able to.

Does the Administration—I realize that the President's proposal is the favored proposal of the President's Administration or you would not be sitting at the table, does the Administration oppose a different approach? The approach, for example, of providing the material and recollecting the material and a new bargain in which countries agree to give up the cycle?

Mr. RADEMAKER. We are——

Mr. SCHIFF. You could do both. You could have the nuclear suppliers agree not to supply, and you could have an agreement among the countries that will provide under international auspices the material and recollect it, and they will agree to give up the cycle. You could do both. What is wrong with doing both?

Mr. RADEMAKER. Let me just say the Administration is open to all good ideas, and there is a lot of good thinking that is going on in this area, and we are part of it. The deliberations that are currently underway at the NSG involve discussions of not only the President's proposal but other proposals that have been made.

So we do not close the door to other ideas. There is a lot of active—there is a lot of diplomatic ferment that is going on in this area, and I think it will continue at the review conference, and that is good.

Mr. SCHIFF. But will——

Mr. RADEMAKER. But if I could respond to your comment——

Mr. SCHIFF. Yes.

Mr. RADEMAKER [continuing]. About why are we not trying to do more at this forum about the President's proposal. Let me just make a congressional analogy that I think you might appreciate.

As a Member, I am sure you offer legislation from time to time, and it is well known that sometimes—different Committees of the Congress take different view on certain issues, and there could well be a proposal that you might have that if it goes to one Committee will have no future at all, and if it goes to a different Committee it would have a very bright future.

So in other words, the forum sometimes is critically important to the success of a proposal. And as an Administration that is trying to put forward serious ideas and have them adopted, we are mindful of trying to find the most amenable forum for the consideration of our proposals.

Mr. SCHIFF. I appreciate the analogy. I wish I had the kind of authority the President does in the international community in this Congress. If I did, I would be sitting a lot closer to the Chair.

Let me ask one last question. I realize I am a little over my time. Are the members of parliament from these countries participating in the review conference?

Mr. RADEMAKER. I cannot speak for the delegations from other countries. I can only speak for the United States. We welcome any congressional interest or involvement in terms of—we will be in New York for 4 weeks, and if Members or their staff wish to come and observe the proceedings, I think that would be fantastic.

Mr. SCHIFF. Well, the reason I ask this, I contacted the U.S. mission at the U.N. to see if I could participate. I was told that no, Members of Congress could not participate, could not testify, that there was no precedent of doing that, and thank you but no thank you.

Mr. RADEMAKER. Yes, well, testimony is not really the right concept here. What happens is this is a diplomatic conference so it is a giant room and every nation has a seat.

Mr. ROYCE. We wanted to chair it. [Laughter.]

Mr. RADEMAKER. And the national delegations make statements about various issues, and so that is—if your definition of participation is could you come and speak on behalf of the United States at the conference, I think that does present separation of powers issues because you are a Member of Congress, and I think you would probably resent being handed the script and told this is the position of the United States, you get to read it, because you might disagree with parts of it.

Mr. SCHIFF. I would not purport to speak on behalf of the whole country and the Administration. But if you are saying we are welcome to come and participate in the discussions as long as we do not say anything, that makes it hard.

Mr. RADEMAKER. But my point is a serious one. The formal discussions consist of delegations speaking on behalf of their governments. So anyone who speaks from behind the United States' nameplate is speaking on behalf of the United States Government, and I do not get up there and wing it. I am sent up there with a script that has been approved by the Government. And if a Member of Congress wants to go and speak on behalf of the United States, he is going to have to read the script. It is not an occasion for presenting your own views in the formal proceedings.

Now, there is a lot that goes on in the corridors. There are other fora that are sponsored in connection with this. But in terms of the formal review conference, it consists of national delegations making national statements, and those are carefully vetted within our Government.

Mr. ROYCE. Thank you, Assistant Secretary Rademaker. I appreciate it. We do have to go to our next panel, and we have got votes coming up. So we appreciate very much your testimony here today.

We are going to ask our next panelists, as they come forward, specifically ask them to rather than read your statements, if you could summarize, and certainly summarize within the 5-minute timeframe. That would be very much appreciated.

Let me introduce our three witnesses. We appreciate them all coming down to DC to testify today.

We have Jean du Preez. He is the Director of the International Organizations and Nonproliferation Program at the Monterey Institute for International Studies' Center for Nonproliferation Program. Prior to joining the Monterey Institute, Mr. du Preez worked for the South African Ministry of Foreign Affairs for 17 years. He was a member of South Africa's delegation to the 1995 and 2000 Nuclear Nonproliferation Treaty Review Conference.

Joseph Cirincione is the Director for Non-Proliferation at the Carnegie Endowment for International Peace. He is the author of numerous books and articles on nonproliferation issues. Prior to joining the Carnegie Endowment, Mr. Cirincione worked on the staff of the House Armed Services Committee, and the House Government Operations Committee.

Henry Sokolski is Executive Director of the Nonproliferation Policy Education Center. He also is the author of a number of books

and articles on nonproliferation. Mr. Sokolski worked as the Deputy for Nonproliferation Policy at the Department of Defense from 1989 to 1993, and was an aide to Senator Dan Quayle and Senator Gordon Humphrey.

I think we will start now with Jean du Preez's testimony. At some point we are going to break for this vote, but if you could begin your testimony, and stay within that 5-minute timeframe, if you would.

STATEMENT OF MR. JEAN P. DU PREEZ, DIRECTOR OF INTERNATIONAL ORGANIZATIONS AND NONPROLIFERATION PROGRAM, CENTER FOR NONPROLIFERATION STUDIES, MONTEREY INSTITUTE OF INTERNATIONAL STUDIES

Mr. DU PREEZ. Thank you, Mr. Chairman and Members of the Subcommittee for inviting me to testify at this very important juncture at the Nuclear Nonproliferation Treaty's history.

As you mentioned, I was a member of the delegations to both the 1995 and the 2000 review conferences where I had the pleasure of working very closely with the United States and other governments to forge a consensus on significant agreements that still stand today.

At that time I was really impressed by the attitude of the United States to both seek hard deals and make compromises. I also listened very carefully to your own comments and that of the Ranking Member, and I fully subscribe to most, if not all, of them.

Even the most positive analysts will agree that the review conference that will start on Monday will face unprecedented challenges, and is unlikely to adopt a final document that represent the view of all states. Admittedly, the period since the last review conference has seen undesirable proliferation developments, but it is also fair to say that the vast majority of states, non-nuclear weapon states, have demonstrated their commitment to and compliance with their treaty obligations.

Many non-nuclear weapon states, however, including allies of the United States, remain unsatisfied with the emphasis that is currently placed by the United States on only the nonproliferation elements of the treaty, believing that nuclear disarmament should have equal priority.

I was struck by Germany's statement during the preparatory phrase that a de facto restriction on the right of peaceful application of nuclear energy should be accompanied by far-reaching nuclear disarmament measures by nuclear weapon states.

The continued vitality and efficacy of the NPT is dependent on the implementation of the treaty as a whole. However, the trends set by some nuclear weapon states, unfortunately including the United States, to rollback on some cases, simply ignore many of the political commitments and undertakings could have serious repercussions for the future of the treaty. Some non-nuclear weapon states could, for instance, ask that if the nuclear weapon states do not consider themselves bound by these agreements, why should they be refused the same privilege? In this context, I would like to recall the agreements reached in 1995 and 2000 on the comprehensive nuclear test ban treaty and to negotiate a treaty on the production of material.

An approach at the upcoming review conference that would focus on what is achievable while maintaining the balance between the core NPT bargains that is drawn from existing obligations, commitments and undertakings will allow the conference to face the core challenges flowing from the treaty's inherent deficiencies.

The challenge that lies before the state parties, particularly the United States, would be to find compromises to collectively address these challenges. I would like to focus on a few of these.

Firstly, as we heard from Mr. Rademaker, the single most important objective for the United States would be to enforce compliance with the treaty's nonproliferation obligations. Since the treaty does not have specific statutory body to enforce this, this is done through the Security Council and the IAEA Board of Governors. These bodies have failed to take effective action in the view of many, not only the United States. The examples of North Korea and Iran are only two to recall. Some proposals have been made to design new bodies, but it is not clear how any new body will actually act differently than the existing bodies. What is needed is an increased support, both legally and politically, for the IAEA's ability to enforce compliance.

Dealing with noncompliant states is another very important issue for the United States, and if one believes that the United States went to war with Iraq partly in belief of—as a belief of its nuclear weapons capability, then one must also think that the issue of North Korea should deserve specific attention, at least by the Security Council.

The U.S. quest to focus on Iran at this review conference could lead to serious counter-effects. Iran, as was pointed out by Mr. Rademaker, is likely to argue with several other countries, including some U.S. allies, that the issue is still before the IAEA Board of Governors, and that until such time that the issue is resolved there that it cannot be dealt with by the review conference.

It would be very important for this review conference, Mr. Chairman, to address the issue of withdrawals. In this regard, the group conference should agree that no state should be rewarded for threatening to withdraw in order to extract some economic or other benefit. It might also agree that the withdrawal from the treaty cannot free a state from the obligation not to use fissile material and production facilities acquired prior to its withdrawal for weapons purposes.

That brings me to the issue of the fuel cycle which has been highlighted by the issue of Iran. The proposals by both President Bush and Dr. ElBaradei from the IAEA, although different in nature, make sense in the current circumstances. These proposals are based on the premise that non-nuclear weapon states in full compliance with the treaty obligations should agree to further restrict their sovereign right. For this reason, they have been criticized, if not rejected, including by many states of the Nuclear Supplies Group.

Since any proposal to restrict access to fuel cycles would in fact introduce a new deal, many would argue that agreement to this end would have to be made by reciprocal obligations by nuclear weapon states.

What is more achievable would be a political agreement at the conference that the ownership of the capability to develop nuclear weapon states places a specific responsibility on the states concerned. Linked to that, the conference should reaffirm that the right under article IV, the peaceful uses right, should be checked by the obligations under articles I, II and III, which would mean that that right would belong only to states in full compliance with the treaty's obligations.

This approach, together with an agreement that the Additional Protocol should represent the next level of adherence to the treaty, would significantly strengthen the IAEA's ability to verify compliance.

Let me say a few words on article VI, Mr. Chairman, in closing. While the United States has made significant strides toward reduction of nuclear weapons, many non-nuclear weapon states believe that the U.S. and other weapon states have not fully implemented the commitments both under the treaty as well as flowing from the agreements reached in the 2000 conference. These agreements were also linked to the extension of the treaty, including the agreement to negotiate and enter into force a CTBT.

Bearing in mind the current situation, however, it would be important for the United States to seek compromises with key countries in this regard. The first compromise that I think would be possible is for the United States to issue a declaration stating that its current testing moratorium is irreversible. Given the U.S. rejection of the CTBT, such a declaration could address in part concerns over the U.S. research on new types of weapons.

The U.S. could also show some flexibility by recognizing that the majority of state parties are in favor of the earliest entry into force of the CTBT.

A second, in my view, easily achievable compromise would be for the United States to pursue one of its longest standing objective, and that is the negotiation of a verifiable fissile material ban treaty. Given that the mandate for the negotiations for this treaty, the so-called Shannon Mandate in the conference on disarmament, protects countries' positions both on verification and the scope of the treaty. I see no reason why the U.S. cannot enter into those negotiations. In fact, if the U.S. agreed to do that, it will send a very positive signal.

Mr. Chairman, the issues before this review conference are not new, and many of them, as I mentioned, are embedded in the treaty's deficiencies. But for the review conference to play an important role, it will have to put the spotlight on today's nonproliferation and disarmament problems.

And for the state parties to fulfill their responsibility, they will have to find ways, not only through carefully scripted diplomatic words, but to concrete actions to fulfill their obligations. Failure to focus on the tough issues, if it will require difficult decisions and hard compromises, would run the risk of making the NPT irrelevant and leading to the eventual downfall of the regime.

Thank you, Mr. Chairman.

[The prepared statement of Mr. du Preez follows:]

PREPARED STATEMENT OF MR. JEAN P. DU PREEZ, DIRECTOR OF INTERNATIONAL ORGANIZATIONS AND NONPROLIFERATION PROGRAM, CENTER FOR NONPROLIFERATION STUDIES, MONTEREY INSTITUTE OF INTERNATIONAL STUDIES

When the NPT State parties convene at the 2005 Review Conference, they will have to confront the most difficult challenges the NPT has ever faced. They seem to have run out of options for dealing with these challenges, or in some cases appear to be complacent to tackle them head on. Admittedly the period since the 2000 Review Conference has seen undesirable nuclear proliferation developments, but it is also fair to say that the overwhelming majority of non-nuclear weapon states (NNWS) have demonstrated their commitment to, and compliance with, their treaty obligations. While the growing burden increasingly lies on the NNWS to demonstrate their compliance, this is not reciprocated by the nuclear weapon states (NWS). Many NNWS, including close allies of the United States, remain unsatisfied with the emphasis that is currently placed by the United States on the nonproliferation elements of the NPT, believing that nuclear disarmament should be given increased priority. Germany, for instance stated clearly during the preparatory phase for the Review Conference that a *de facto* restriction on the right to the peaceful application of nuclear energy should be accompanied by far reaching nuclear disarmament measures by the NWS.

The continued vitality and efficacy of the NPT as an instrument to maintain international peace and security, is dependent on the implementation of the treaty and treaty based political agreements as a whole. However, the trend set by some NWS, including the United States to roll back, or in some cases simply ignore many of these political commitments and undertakings, could have serious repercussions for the future viability of the treaty. Some NNWS could come to the conclusion that if the NWS are allowed to cherry-pick which commitments—legally or politically—they consider applicable or not, then why should they be refused the same privilege? Take for instance the 1995 and 2000 pledges to negotiate and work for the early entry into force of the Comprehensive Nuclear Test Ban Treaty (CTBT) and to negotiate an internationally verifiable treaty banning fissile material for weapons purposes. The United States has since walked away from these agreements. If the principle of *quid pro quo* is to be applied, NNWS could rightfully stop upholding commitments in a way that the United States would find distasteful.

An approach at the 2005 Review Conference that focuses on the achievable, maintains the balance between the core NPT bargains, and does not attempt to reinterpret, negate or withdraw from existing obligations, commitments, and undertakings, will allow the conference to meet the core challenges flowing from the treaty's inherent deficiencies. In this lies the challenge for all the State parties, but in particular for the United States.

Inability to Enforce Compliance

From a U.S. perspective the single most important objective would be to strengthen the treaty's ability to enforce compliance with its nonproliferation obligations. This objective, fueled in part by the frustration over increasing evidence that Iran is not forthcoming about its nuclear intentions have led to U.S. criticism of the existing mechanisms to verify and enforce compliance. Since the statutory bodies designated to address treaty violations—the IAEA Board of Governors and the UN Security Council—are not independent institutional actors and often politically divided, they have failed to take effective action. For example, the Security Council has so far been unable to even consider the North Korean case despite condemning IAEA evidence, and divisions within the IAEA Board continue on how to deal with Iran's failure to fully implement its safeguards agreements.

Although several proposals have been made to strengthen the treaty's enforcement mechanism, it is not clear how any special body tasked to enforce compliance would be any more vigorous in adopting enforcement mechanisms than the existing institutions. Rather than focusing on altering enforcement mechanisms, the Review Conference and subsequent discussions might more usefully concentrate on when they would be needed. That is, these efforts could focus on drafting appropriate criteria to unambiguously prove that another state-party has a nuclear weapons program. In addition, the State parties should direct their energy at strengthening the IAEA's ability—both legal and technical—to verify compliance.

Dealing with non-compliant States

The only State parties found to be in non-compliance by the IAEA and the Security Council are Iraq and North Korea. It is striking that the United States was prepared to go to war in part over its belief that Iraq was in non-compliance with Security Council resolutions related to the development of nuclear weapons and other weapons of mass destruction. It is equally striking that despite the unprece-

mented challenge represented by North Korea's announced withdrawal from the treaty and its determined pursuit of nuclear weapons no action has been taken by either the NPT parties or the Security Council. This apparent inaction appears tantamount to tacit acceptance of yet another nuclear-armed State outside the treaty. Failure by the State parties to collectively respond at this Review Conference to one of the most significant events in the treaty's history could make a mockery of the treaty.

In addition to North Korea, concerns have increased that states such as Iraq, Iran, and Libya, have in the past been, or continue to be, involved in clandestine nuclear weapons development. Iran in particular, may be closely watching how the States respond at this Review Conference to the North Korean nuclear challenge, especially if it believes that the only way to avoid becoming a target of potential U.S. military intervention would be to develop a nuclear weapons capability of its own. The treaty would be severely weakened—if not mortally wounded—should Iran choose to follow this path.

The U.S. quest to strengthen the treaty's compliance mechanism seems to be focused mainly on Iran. However, the pursuit of a strategy at this Review Conference to single out Iran as a non-compliant state could have serious repercussions. Since the IAEA Board remain seized with the matter, and has so far been unable to conclusively find Iran in non-compliance, Iran and many other states, including U.S. allies are likely to argue that the Review Conference should not prematurely express itself in this regard. Moreover, a strong focus on non-compliance could stimulate allegations by NNWS that the United States itself is in non-compliance with some of its treaty obligations, in particular its Article VI commitments. Instead the United States should work with the European Union and other members of the IAEA Board to find a permanent diplomatic solution to the Iranian challenge.

Preventing further withdrawals

Concerns over the treaty's weakness to enforce compliance further highlighted by North Korea's announced withdrawal expose yet another deficiency in its design: how to prevent a state from secretly acquiring a nuclear weapons capability and then use the treaty's withdrawal clause to exonerate it self from any consequences.

First of all, State parties should agree that no state should be rewarded for threatening to withdraw in order to extract some economic or security benefit, and that no state should be allowed to renege on its treaty obligations if its withdrawal is used to avoid consequences or noncompliance by the NPT. Secondly, State parties might agree that withdrawal from the treaty cannot free a NNWS state from the obligation not to use fissile material and production facilities (including those of indigenous origin) acquired prior to its withdrawal for weapons purposes. While difficult to enforce, such an agreement would signal that the State parties will challenge attempts to exploit Article X.

Some other measures might be taken outside the context of the NPT. For example, the Security Council should stiffen its resolve to act promptly when a state indicates its intention to withdraw. In the end, the withdrawing state must realize it will be worse off than it was before making the decision to pull out of the NPT.

Article IV: An inalienable right or a potential loophole?

Concerns over Iran's nuclear intentions highlight the potential risks of allowing NPT member states to legitimately develop an entire nuclear fuel cycle under Article IV without having a sufficient mechanism to objectively gauge their nuclear intentions. Although recent proposals by President Bush and IAEA Director-General Mohamed ElBaradei—although vastly different in nature—to limit access to, or internationally control over, civilian nuclear fuel production may make sense under current circumstances, these proposals are based on the premise that NNWS in full compliance with their treaty's obligations should agree to further restrict a sovereign right. For this reason, both proposals have been criticized—if not rejected—by many States, including key U.S. allies such as Japan. Moreover, since any proposal to restrict access to or development of national fuel cycles would introduce a "new deal" with added restrictions on non-nuclear-weapon states, any agreement to this end would have to be met with reciprocal obligations by the NWS.

A possible way for the Review Conference to address the apparent weakness of Article IV would be for them to first and foremost agree that while the right to use the atom for peaceful purposes is an inalienable one, ownership of the capability—which could be used to develop nuclear weapons—places a special responsibility on states concerned. Secondly, the States should reaffirm their interpretation of Article IV and its relationship with Articles I, II, and III, thereby interpreting the inalienable right to peaceful use of nuclear energy to belong only to those parties in full compliance with the treaty's nonproliferation obligations. This approach, together

with an agreement to apply comprehensive safeguards agreements and the Model Protocol additional to those agreements, could significantly strengthen the IAEA's ability to verify compliance.

A more radical approach—likely to face strong opposition from many NNWS—would be for the Review Conference to agree that State parties under investigation of violating their safeguards agreements, or that have been found by the IAEA Board to have failed to comply with their obligations, should lose the right to develop their own enrichment and reprocessing capabilities. Agreement on how to enforce this approach, especially in the case of countries that could pursue indigenous development of these capabilities, may be very difficult.

Outdated safeguards

Another high priority should be to secure an agreement that the strengthened safeguards system would constitute the treaty's mandatory safeguards standard. Although a tough nut to crack, it is achievable provided a reasonable strategy by the United States in cooperation with other States across traditional political groupings. If for instance linked to a compromise that would allow negotiations on a fissile material cut-off treaty to commence, such a strategy has the potential to build consensus at the conference.

Still even with its full implementation, the Additional Protocol only provides the agency with more extensive abilities to verify capabilities, not intentions; thus a state can still legally develop a "break-out" capability even if it is under IAEA supervision. What would be required is for the agency to have an enhanced technical capacity linked to reliable access to intelligence sources and technologies. This would require an increased political and financial commitment from all its member states.

Weakness of Article VI

Many NNWS believe that the NWS are no longer fully committed to their obligations under Article VI of the treaty to make good faith efforts toward disarmament. They are especially bothered that some nuclear-weapon states appear to have walked away from the "unequivocal undertaking" given at the 2000 NPT Review Conference to eliminate their nuclear arsenals as part of "13 practical steps" toward nuclear disarmament. This highlights what many view as one of the fundamental weaknesses in the treaty: the absence of a timeframe for disarmament. While the United States is promoting ways to enhance the nonproliferation objectives of the treaty, many NNWS rightfully argue that if these objectives are to be backed by stricter verification and enforcement measures, so should the treaty's disarmament objectives.

It should be pointed out that the 2000 agreement on practical disarmament steps was not taken in isolation—it should be considered against the backdrop of the package of decisions adopted in 1995, which included the indefinite extension of the treaty. The 1995 package allowed all State parties to support the indefinite extension while also providing several practical steps for achieving progress toward nuclear disarmament and nonproliferation. The 2000 Review Conference reaffirmed this program of action, and agreed on a set of specific practical "systematic and progressive" steps to implement Article VI.

Bearing in mind the reality of the current security situation, it would be important for the United States to seek compromises with key NNWS—as it did in 2000 in partnership with the New Agenda Coalition—rather than to reject the majority of states' quest to achieve real progress towards nuclear disarmament. An achievable approach would be for all State parties to focus their attention on reaching agreements that could be implemented in the foreseeable future and in the period before 2010, without negating those that were agreed upon in 1995 and 2000. An indicative list of measures could include:

- (1) The United States could issue a declaration stating that its current testing moratorium is irreversible. Given the U.S. rejection of the CTBT, such a declaration could address concerns regarding U.S. research on new types of nuclear weapons. In addition, the United States could show flexibility by recognizing that the overwhelming majority of State parties support the earliest entry into force of the CTBT. It could furthermore support a call on all States to provide full financial and technical support for the Comprehensive Test Ban Treaty Organization Preparatory Commission and its Provisional Technical Secretariat.

- (2) In sharp contrast to one of its longest standing policy objectives, i.e. the need for an effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices stands the new U.S. position that such a treaty cannot be verifiable. Given that the 1995 Shannon negotiating mandate clearly protects all states' positions since the verification and scope of such a

treaty would be subject of the negotiations in the CD, it would be in U.S. interest to enter the negotiations as soon as possible. A “concession” by the United States to start negotiations on this basis could for instance be linked to progress on the Additional Protocol as the required level of treaty adherence.

(3) Of related importance, in particular given concerns over nuclear terrorism and clandestine nuclear networks, would be the completion and implementation of arrangements by all NWS to place fissile material no longer required for military purposes under international verification. Given the United States’ own initiatives in this regard, it could work with other NWS to do the same.

(4) Another disarmament measure that could earn the United States some credit without significant negative implications would be to agree to further steps by the NWS to reduce their non-strategic nuclear arsenals, and not to develop new types of nuclear weapons in accordance with their commitment to diminish the role of nuclear weapons in their security policies.

The Unresolved Issue of Negative Security Assurances

One of the original shortcomings of the treaty was that it did not provide legally binding assurances against the use or threat of use of nuclear weapons against non-nuclear-weapon states—so called negative security assurances—in exchange for the commitment by these states not to acquire nuclear weapons themselves. The NWS have, however, made or updated unilateral, non-legally binding pledges establishing criteria for the granting of negative security assurances to NNWS. These combined pledges provided the NWS with bargaining leverage at the 1995 conference. The 2000 Review Conference Final Document included a clear and unambiguous statement that legally binding security assurances would strengthen the NPT regime.

The need for these assurances have become particularly acute to the NNWS given concerns over the potential development in the United States and Russia of new types of nuclear weapons such as the Robust Nuclear Earth Penetrator (RNEP) or “bunker buster.” Given the principled reasons behind the need for such assurances, this issue, if not addressed properly, has the potential to generate serious problems at the 2005 Review Conference.

Several options exist on how to address the quest by the NNWS for legally binding negative security assurances, including negotiating a legally binding protocol to the treaty. Although inconceivable that the United States will at this Review Conference agree to negotiate such an instrument, it could initiate a joint NWS statement in this regard. A reaffirmation by the Conference that legally binding security assurances would strengthen the NPT regime and that the issue should continue to be considered in the context of the strengthen review process, may appease most NNWS. Regardless of how such assurances are to be formulated it would, however, be important to recognize that assurances offered within the context of the NPT, as opposed to another forum, would provide a significant benefit to NPT parties. They would serve as an incentive to those who remained outside the treaty, or those who may consider leaving the regime. As such, security assurances should be granted only to states that have forgone the nuclear weapons option and not to those who are still keeping their options open, such as North Korea and Iran. This would strengthen the regime and confirm the continued validity of the NPT and its indefinite extension, while addressing concerns over possible scenarios in which some NWS may consider using nuclear weapons.

Promoting universal adherence

The near universality of the NPT has succeeded in creating a nonproliferation norm that has made the world safer by significantly raising the political cost of making nuclear weapons. But its inability to become fully universal is a major failure with potential serious consequences, especially since the non-parties are all armed with nuclear weapons. While the goal of persuading these states to eliminate their nuclear arsenals should not be abandoned, it is likely to be achieved only when the five declared NWS get rid of theirs.

Instead of symbolic efforts to convince the three outlier states to join the NPT as NNWS, it would be more important to press these states to politically commit themselves to the nonproliferation obligations similar to those adhered to by the NPT NWS: preventing proliferation exports, securing nuclear weapons and materials, reducing the role of nuclear weapons in their national security policies, and eschewing nuclear testing.

Dealing with New Players: Non-State Actors and Terrorists

Since the treaty was designed to deal with state entities only, it appears ineffective to prevent subnational terrorist groups from acquiring nuclear weapons. Moreover, treaty members have witnessed an increased proliferation of nuclear weapons technologies, including the discovery of a network of clandestine nuclear smuggling

activities from a non-party with nuclear weapons—Pakistan—despite increasing efforts by supplier states to control these technologies. No mechanism exists—other than that of individual states and institutions such as the Security Council—to deal with this emerging challenge.

The adoption of Security Council Resolution 1540 was clearly meant to address this weakness. Although its Chapter VII nature implies that all NPT States should be in support of its objectives, many States remain concerned that the Security Council has now taken on a legislative role in adopting broad—as opposed to case specific—measures applicable to all states. States are also concerned about the practical implications of implementing these measures. Still, State parties critical of the resolution are likely to face difficulties at the Review Conference to oppose references to the resolution as an important tool to deal with non-state actors. States, in particular the members of the Non-Aligned Movement are, however, likely to argue that the resolution clearly stipulates that none of the obligations set forth in it “shall be interpreted so as to conflict with or alter the rights and obligations” of NPT state parties, which by implication also include the inalienable right to nuclear energy for peaceful purposes. They may also use the occasion to press for the assistance that the resolution be offered to states “lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions.” A U.S. strategy to promote the implementation of resolution 1540 in the context of the NPT should therefore be linked to rendering legislative and practical assistance to States that require such assistance.

Conclusion

The challenges to the treaty are not new—most of them are embedded in the treaty’s bargains and deficiencies. But for the treaty to remain viable as the “cornerstone” of the nonproliferation and disarmament regime, the State parties will have to muster the political will—both individually and collectively—to implement all their obligations under the treaty. The Review Conference can play an important role in this process by turning the spotlight on today’s nonproliferation and disarmament challenges and identifying collective and national responses to deal with them. What is, however, of crucial importance is that they do so in earnest and not seek to fix the cracks in the NPT’s armor through carefully scripted, and often watered down consensus language, for the sake of a “successful outcome” or final document. Failure to focus on, and resolve these tough issues—even though doing so may require difficult decisions and hard compromises—runs the risk of making the NPT irrelevant and leading to the eventual downfall of the regime.

A successful Review Conference should ensure that the various governments of State parties and their bureaucracies begin to get really serious about implementing all their obligations. However, a divisive debate at the Review Conference, where some states continually attempt to reinforce the treaty’s core bargains, while others attempt to reinterpret or negate them, will undermine the treaty regime.

In this context it should be underlined that individual elements of the NPT’s bargains cannot be approached singularly, neither can one or another of these elements be ignored or minimized. Any desire, be it by the United States and other NWS or by the NNWS to address only one aspect of the NPT bargains—be it nuclear disarmament, nuclear non-proliferation, safeguards, the peaceful uses of nuclear energy or universality—should be guarded against. The proponents of such proposals would need to realize that they may not only be satisfying an immediate national objective(s), but that they may in the process be laying the foundation for undermining the entire package of bargains that make up the NPT treaty regime. Such approaches may set additional challenges that the 2005 Review Conference will not be able to meet.

Mr. ROYCE. Thank you, Mr. du Preez.

Mr. Cirincione and Mr. Sokolski, we will return right after this vote. In the meantime we will stand in recess. Thank you very much.

[Recess.]

Mr. ROYCE. The Subcommittee will come to order.

We are going to remind the witnesses we have all of your printed testimony. As a matter of fact, we read your printed testimony last night, which will be part of the record. So if you want to summarize, Mr. Cirincione, that would be great, and thank you very much. Proceed, please.

**STATEMENT OF MR. JOSEPH CIRINCIONE, SENIOR ASSOCIATE
AND DIRECTOR, NON-PROLIFERATION PROJECT, CARNEGIE
ENDOWMENT FOR INTERNATIONAL PEACE**

Mr. CIRINCIONE. Thank you, Chairman Royce, for the privilege of testifying before this Committee, and I thank the other Members of the Committee. Mr. Schiff, it is a pleasure to be able to talk in front of you. Thank you for submitting my testimony for the record. I have also brought with me copies of the new Carnegie Endowment Report, "Universal Compliance." I would like to give them to you, Chairman Royce, for those Members of the Committee that might want to have a hard copy of the report itself. A great deal of my testimony is based on the collective wisdom of my fellow authors at Carnegie Endowment: George Perkovich, Jessica Mathews, Rose Gottemoeller and John Wolfsthal.

In brief, Mr. Chairman, we are in trouble here. We are in trouble at this conference. This is not going well. Just yesterday we had over at Carnegie a meeting of maybe a dozen or so leading former officials and experts in this field, Henry Sokolski was there, and I would say there was a sense of deep pessimism about the outcome of this conference.

If you were to take a poll, I would say that most people are predicting right now that this conference will end without a consensus statement for some of the reasons you heard in the Assistant Secretary's testimony, and then they would be divided over whether that meant that the conference was a failure or not.

The official U.S. position is that it is good enough to have a serious discussion at the conference. And as the Secretary pointed out, half of the conferences have ended without a consensus document.

I would say that this meeting is different. It comes at a particularly fragile time in the history of the nonproliferation regime. It comes at a time when we do not have the two superpowers, the United States and the Soviet Union, there to hold everything together when a particular conference fails. It comes at a time when there is not a rising optimism as there was in 1995 and 2000 about the prospects for making deeper reduction in nuclear weapons and stopping the countries that were advancing toward nuclear programs.

If this conference ends without a consensus document, if it is seen as a failure, then that is a serious blow to the confidence that all the other nations have in the nonproliferation regime. And if the United States of America is seen as the reason for that failure, then this greatly sets back our efforts to resolve the crisis with Iran, to resolve the crisis with North Korea, to change the rules of the road on the nuclear fuel cycle, to convince India, Israel and Pakistan, the three nuclear weapon states not members of the treaty, to conform to international nonproliferation treaties. It makes all our work harder across the board.

That is why this is an opportunity that we cannot afford to pass up. We have to do more. I am an optimist. I believe that it is still possible to get a meaningful consensus document out of this conference, for the U.S. to exert the leadership that is necessary. Mr. Chairman was referring to it. If the U.S. does not lead, who will? I completely agree. We have always led in this regime. We built this regime. This is our regime.

Republicans and Democrats working together 40 years have made this thing work, and have made it the most successful security pact in the history of the world. It is not perfect. There are countries that are cheating on it, as you pointed out, but there are 190 nations in the world, only nine of them have nuclear weapons. The rest have adhered to this pact with the possible exception of Iran, who is knocking on the door now. In that nine, I am counting North Korea, although there is some question about that.

That is a remarkable record of success, and it is not because there are not other countries who could build nuclear weapons. There are some 40 nations who could, if they wanted to, change their political decisions and go ahead with nuclear weapons program. But because of the NPT, because of the alliance networks the United States has built up, because of all these efforts over the last 40 years, those countries have decided not to go ahead and build nuclear weapons.

It is those countries whose decisions might be reconsidered if this conference fails, if the Iranian crisis is unresolved, if North Korea consolidates as a nuclear weapon state. You can imagine a very different and darker future 5 years from now, and we might then look back and see this conference as one of those nuclear tipping points.

Fortunately, there are things we can do about it. I am going to tell you what they are in 30 seconds. Some of your colleagues have come together and sponsored House Joint Concurrent Resolution 133. I have attached that to my testimony. It has a series of practical steps, feasible steps that could come out of this conference.

The conference does not agree, does not make these steps happen, but it can express the desire of the members of that conference to make progress on these steps.

For example, on toughening up the withdrawal procedures for a country that wants to leave the NPT; on making deeper reductions in nuclear weapons stockpiles for all countries, and making those reductions irreversible and transparent; on reforming the fuel cycle so that no new nation builds a uranium enrichment facility, no new nations, a universal standard that is adopted.

These kinds of recommendations are also made in the statement that I have attached by 23 former officials and top experts, including the former Secretary of State, two former Secretaries of Defense, and the former Chairman of this Committee, Lee Hamilton.

So I recommend their recommendations to you for your considerations, and I look forward to answering your questions in the discussion period.

[The prepared statement of Mr. Cirincione follows:]

PREPARED STATEMENT OF MR. JOSEPH CIRINCIONE, SENIOR ASSOCIATE AND DIRECTOR, NON-PROLIFERATION PROJECT, CARNEGIE ENDOWMENT FOR INTERNATIONAL PEACE

A CRITICAL CONFERENCE

Thank you, Chairman Royce, Congressman Sherman and Members of the Committee for the privilege of testifying before you today.

History moves slowly, but when we look back we often can see critical points—events where change was developing in one direction before the event and in a different direction after. Over the next few years, we can anticipate several such tipping points for nonproliferation policy, including Iran, North Korea, the procedures governing the nuclear fuel cycle, and the Review Conference for the Non-Proliferation Treaty (NPT). How we resolve the issues around these events will determine

whether we continue to make progress in reducing and eliminating the threats from nuclear weapons, or if we begin a new, dangerous wave of nuclear proliferation.

How can a mere conference, particularly one that is not empowered to actually do anything, make such a critical difference? It is because of the context in which this conference takes place. This review conference comes at a particularly unstable moment. There are growing doubts about the sustainability of the entire non-proliferation regime, about America's commitment to that regime, and even about the legitimacy of U.S. leadership in the world.

The majority of countries feel that the five original nuclear weapons states (the United States, Russia, the United Kingdom, France and China) do not intend to fulfill their end of the NPT bargain—the pledge to eliminate nuclear weapons. That growing conviction erodes the willingness among members of this majority to live up to their side of the bargain—much less to agree to strengthen the regime.

Today's greatest threat stems from the wide availability—which the existing rules allow—of highly enriched uranium (HEU) and plutonium, the fissile materials that are the fuel of nuclear weapons. These materials have become more accessible to terrorists because of the collapse of the Soviet Union and poor security at nuclear stockpiles in the former Soviet republics and in dozens of other countries.

There is also the danger that new nations could acquire nuclear weapons by exploiting the NPT's failure to define specifically what constitutes the "peaceful" application of nuclear capabilities to which non-nuclear-weapon states commit themselves. As the treaty has been interpreted, countries can acquire technologies that bring them to the very brink of nuclear weapon capability without explicitly violating the agreement, and can then leave the treaty without penalty.

This is a moment where American leadership is essential. American leadership forged the NPT and built it into the most successful security pact in the history of the world. It has not worked perfectly, but before the treaty there were 23 nations that had nuclear weapons, were conducting weapon-related research, or were debating the pursuit of weapons. Today there are only 10, including North Korea and Iran. With the active support of previous U.S. presidents, the treaty has grown into an interlocking network of agreements and controls that provide nations with many of the necessary tools to block the spread of nuclear weapons.

The danger today is that many nations see American support for the treaty waning. They sense antipathy, even hostility, towards the treaty and an unwillingness to consider their views. If the NPT Review Conference ends in disagreement, if it fails to produce a consensus document, many nations will see this as a sign that the regime is unraveling. They may begin to hedge their bets. Nations with ample technological ability to develop nuclear weapons may be reconsidering their political decisions not to do so. India, Pakistan and Israel—the three nuclear weapon states outside the NPT—may become more resistant to coming into conformity with non-proliferation norms and security procedures.

This conference will also play a critical role in resolving the crisis with Iran. The Iranian delegation will come into the conference with one objective: to isolate the United States. They will position themselves as the defender of the right of nations to the peaceful uses of nuclear technology (as guaranteed under Article IV). They may even acknowledge some past "mistakes" in not reporting their nuclear activities, but firmly argue that they are now ready to accept any and all safeguards over their production of fuel for their nuclear reactors. They will say that Iran is willing to play by the rules—and that it is the United States that is trying to unilaterally change the rules and deny developing nations access to the energy source of the future. If the conference ends in discord, and if the United States is seen as responsible for this failure, Iran's strategy will have succeeded. It will become even more difficult to restrain Iran's program or to win majority approval for sanctions or other punitive actions against Iran when this crisis reaches its likely boiling point this summer and fall.

It is vital that the United States come into the conference next week with a high-level commitment to achieving a positive outcome to the conference. Secretary of State Condoleezza Rice should be encouraged to deliver the opening remarks for the United States. The secretary would be the perfect representative to deliver the U.S. position to the conference and to prepare the ground for the hard work of negotiations in the coming weeks.

Our objective should not be to simply to avoid disaster, or to have a good series of discussions at the conference, or to produce a bland, lowest common denominator final document. None of these will do the job. All of them could, in the coming months, be seen by other nations as a sign that the treaty is eroding. Rather, the conference should be and could be an opportunity for a powerful, positive new charge to revitalize the regime and American leadership of it. It is not too late.

There is no better guidance for the kinds of positive steps that could come out of the conference than those proposed in House Concurrent Resolution 133, sponsored by Representatives Spratt, Leach, Markey, Skelton, Shays, and Tauscher, and now before the Committee. These members recommend that the Congress call on all parties participating in the conference to make good faith efforts to:

- (A) establish more effective controls on critical technologies that can be used to produce materials for nuclear weapons;
- (B) ensure universal adoption of the Additional Protocol to the NPT and support the authority and ability of the International Atomic Energy Agency to inspect and monitor compliance with nonproliferation rules and standards;
- (C) conduct vigorous diplomacy and use collective economic leverage to halt uranium enrichment and other nuclear fuel cycle activities in Iran, and verifiably dismantle North Korea's nuclear weapons capacity;
- (D) conduct diplomacy to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate nuclear nonproliferation efforts in those regions;
- (E) accelerate programs to eliminate nuclear weapons, including their fissile material, and to safeguard nuclear weapons-grade fissile materials to the highest standards in order to prevent access by terrorists or other states, decrease and ultimately end the use of highly enriched uranium in civilian reactors, and strengthen national and international export controls and material security measures as required by United Nations Resolution 1540;
- (F) establish procedures to ensure that a state cannot retain access to controlled nuclear materials, equipment, technology, and components acquired for peaceful purposes or avoid sanctions imposed by the United Nations for violations of the NPT by withdrawing from the NPT, whether or not such withdrawal is consistent with Article X of the NPT
- (G) implement the disarmament obligations and commitments of the parties that are related to the NPT by—
 - i. further reducing the size of their nuclear stockpiles (including reserves);
 - ii. taking all steps to improve command and control of nuclear weapons in order to eliminate the chances of an accidental or unauthorized use of nuclear weapons;
 - iii. continuing the moratorium on nuclear test explosions, and, for those parties who have not already done so, taking steps to ratify the Comprehensive Test Ban Treaty;
 - iv. pursuing an agreement to verifiably halt the production of fissile materials for weapons;
 - v. reaffirming existing pledges to non-nuclear-weapon state members of the NPT that they will not be subjected to nuclear attack or threats of attack; and
 - vi. undertaking a rigorous and accurate accounting of substrategic nuclear weapons and negotiating an agreement to verifiably reduce such stockpiles.

These recommendations reflect the widespread views of many nonproliferation experts.

I have attached the text of Resolution 133 to my testimony. I have also attached the joint statement of 23 former officials and experts on their recommendations for the NPT conference. I have also attached a short summary of recommendations from the new Carnegie Endowment for International Peace study, *Universal Compliance: A Strategy for Nuclear Security*. This study is available in full at: www.ProliferationNews.org.

Thank you again for the opportunity to present these thoughts to the Committee. I look forward to any questions you may have.

ATTACHMENT 1

109th CONGRESS
1st Session

H. CON. RES. 133

Stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference.

IN THE HOUSE OF REPRESENTATIVES

April 14, 2005

Mr. SPRATT (for himself, Mr. LEACH, Mr. MARKEY, Mr. SKELTON, Mr. SHAYS, and Mrs. TAUSCHER) submitted the following concurrent resolution; which was referred to the Committee on International Relations

CONCURRENT RESOLUTION

Stating the policy of the Congress concerning actions to support the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) on the occasion of the Seventh NPT Review Conference.

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons of 1968 (NPT) codifies one of the most important international security agreements of all time, whereby states without nuclear weapons pledge not to acquire them, while states with nuclear weapons commit to eventually eliminate them, and allowances are made for the peaceful use of nuclear technology by non-nuclear-weapon states under strict and verifiable control;

Whereas the NPT has 188 signatory states;

Whereas the NPT has encouraged many countries to officially abandon nuclear weapons and their nuclear weapons programs, including Argentina, Belarus, Brazil, Kazakhstan, Libya, South Africa, South Korea, Sweden, and Ukraine;

Whereas at the NPT Review and Extension Conference in 1995, the signatory states agreed to extend the NPT indefinitely, to reaffirm the principles and objectives of the NPT, to strengthen the NPT review process, and to implement further specific and practical steps on nonproliferation and disarmament;

Whereas at the NPT Review Conference in 2000, the parties agreed to specific steps toward nonproliferation and disarmament, including entry into force of the Comprehensive Test Ban Treaty, negotiation of a verifiable treaty banning the production of fissile material for weapons purposes, and verifiable reductions of the alert status and number of strategic and substrategic nuclear weapon arsenals;

Whereas President George W. Bush on March 7, 2005, called 'the NPT . . . a key legal barrier to nuclear weapons proliferation and . . . a critical contribution to international

security,' and stated that 'the United States is firmly committed to its obligations under the NPT';

Whereas in 1995, the United States reaffirmed its negative security assurance to non-nuclear-weapon states of the NPT, stating 'The United States reaffirms that it will not use nuclear weapons against non-nuclear-weapon state-parties to the Treaty on the Non-Proliferation of Nuclear Weapons, except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a state toward which it has a security commitment carried out, or sustained by such a non-nuclear-weapon state in association or alliance with a nuclear-weapon state.';

Whereas United Nations Security Council Resolution 1540 calls upon all states 'to promote the universal adoption and full implementation, and where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons';

Whereas the United Nations Secretary-General's High-Level Panel on Threats, Challenges and Change concluded that 'Almost 60 States currently operate or are constructing nuclear power or research reactors, and at least 40 possess the industrial and scientific infrastructure which would enable them, if they chose, to build nuclear weapons at relatively short notice if the legal and normative constraints of the Treaty regime no longer apply', and it warned that 'We are approaching a point at which the erosion of the non-proliferation regime could become irreversible and result in a cascade of proliferation.';

Whereas the threat of terrorists obtaining a nuclear weapon or nuclear materials has grown significantly since the inception of the NPT as a result of inadequate security and accounting at nuclear facilities throughout the former Soviet republics and in dozens of other countries;

Whereas despite the fact that Article IV of the NPT makes clear that access to peaceful nuclear cooperation by non-nuclear-weapon states requires their conduct to be 'in conformity with Articles I and II' of the Treaty, some parties to the Treaty have nevertheless abused this right by pursuing nuclear weapons capabilities;

Whereas North Korea ejected international inspectors in 2002 and announced its withdrawal from the NPT in 2003, and has declared its possession of nuclear weapons and its intention to bolster its nuclear arsenal;

Whereas Iran continues to assert its right to pursue nuclear power and related technology, its intent to resume enrichment processes that it has temporarily suspended through an agreement with the European Union, and has not fully cooperated with the ongoing investigation by the International Atomic Energy Agency (IAEA) of its nuclear activities;

Whereas the A.Q. Khan network sold nuclear technology, including a weapon design, to states including Iran, Libya, and North Korea, and represents a new and dangerous form of proliferation;

Whereas the Additional Protocol to the NPT would allow inspections of suspected nuclear facilities in addition to declared nuclear facilities;

Whereas on February 13, 2004, President Bush stated 'Nations that are serious about fighting proliferation will approve and implement the Additional Protocol.';

Whereas the global nuclear threat cannot be reduced without stronger international support and cooperation to achieve universal compliance with tighter nuclear nonproliferation rules and standards;

Whereas sustained leadership from the United States is essential to implement existing legal and political commitments established by the NPT and to realize a more effective global nuclear nonproliferation system; and

Whereas the United States and other countries should pursue a balanced and comprehensive set of initiatives to strengthen the global nuclear nonproliferation system, beginning with the NPT Review Conference in 2005: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the 'Non-Proliferation Treaty Enhancement Resolution of 2005'.

SEC. 2. STATEMENT OF POLICY.

The Congress--

- (1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and expresses its support for appropriate measures to strengthen the NPT;
- (2) calls on all parties participating in the Seventh Review Conference on the Treaty on the Non-Proliferation of Nuclear Weapons to make good faith efforts to--
 - (A) establish more effective controls on critical technologies that can be used to produce materials for nuclear weapons;
 - (B) ensure universal adoption of the Additional Protocol to the NPT and support the authority and ability of the International Atomic Energy Agency to inspect and monitor compliance with nonproliferation rules and standards;
 - (C) conduct vigorous diplomacy and use collective economic leverage to halt uranium enrichment and other nuclear fuel cycle activities in Iran, and verifiably dismantle North Korea's nuclear weapons capacity;
 - (D) conduct diplomacy to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate nuclear nonproliferation efforts in those regions;

- (E) accelerate programs to eliminate nuclear weapons, including their fissile material, and to safeguard nuclear weapons-grade fissile materials to the highest standards in order to prevent access by terrorists or other states, decrease and ultimately end the use of highly enriched uranium in civilian reactors, and strengthen national and international export controls and material security measures as required by United Nations Resolution 1540;
 - (F) establish procedures to ensure that a state cannot retain access to controlled nuclear materials, equipment, technology, and components acquired for peaceful purposes or avoid sanctions imposed by the United Nations for violations of the NPT by withdrawing from the NPT, whether or not such withdrawal is consistent with Article X of the NPT;
 - (G) implement the disarmament obligations and commitments of the parties that are related to the NPT by--
 - (i) further reducing the size of their nuclear stockpiles (including reserves);
 - (ii) taking all steps to improve command and control of nuclear weapons in order to eliminate the chances of an accidental or unauthorized use of nuclear weapons;
 - (iii) continuing the moratorium on nuclear test explosions, and, for those parties who have not already done so, taking steps to ratify the Comprehensive Test Ban Treaty;
 - (iv) pursuing an agreement to verifiably halt the production of fissile materials for weapons;
 - (v) reaffirming existing pledges to non-nuclear-weapon state members of the NPT that they will not be subjected to nuclear attack or threats of attack; and
 - (vi) undertaking a rigorous and accurate accounting of substrategic nuclear weapons and negotiating an agreement to verifiably reduce such stockpiles; and
- (3) affirms its support for the Proliferation Security Initiative, and urges additional nations to join the Initiative.

ATTACHMENT 2

Statement on the 2005 NPT Review Conference and Beyond**April 5, 2005**

Thirty-five years ago, the nuclear Nonproliferation Treaty (NPT) set into place one of the most important international security bargains of all time: states without nuclear weapons pledged not to acquire them, while nuclear-armed states committed to eventually give them up. At the same time, the NPT allowed for the peaceful use of nuclear technology by non-nuclear-weapon states under strict and verifiable control.

Over the years, the NPT security framework has led several states to abandon their nuclear weapons ambitions and has made it far more difficult for other non-nuclear-weapon states to acquire the material and technology needed to build such weapons or to avoid detection of a covert nuclear weapons program. The NPT process also has encouraged action on several nuclear arms control initiatives and led the nuclear-weapon states to pledge not to use nuclear weapons against non-nuclear-weapon NPT members, thereby reducing incentives for others to seek nuclear arms for prestige or defense.

Today's security environment requires an even more comprehensive and robust global nonproliferation strategy. The NPT's future success depends on universal compliance with tighter rules to prevent the spread of nuclear weapons, more effective regional security strategies, and renewed progress toward fulfillment of the nuclear-weapon states' NPT disarmament obligations.

We call upon all states-parties to recommit themselves to the legal and political obligations established by the treaty and successive NPT Review Conferences, as well as agree on a specific and balanced program of action to strengthen treaty implementation and compliance.

Since the 2000 Review Conference, the nuclear threat has evolved in dangerous ways and the global nonproliferation system faces difficult challenges. We have seen new and more deadly forms of terrorism, wars, nuclear black markets, states cheating on the NPT, and even one, North Korea, announcing its withdrawal from the treaty. Perhaps today's greatest threat stems from the existing global stockpiles of highly enriched uranium and plutonium, the fissile materials that are the fuel of nuclear bombs. These materials remain far too accessible to terrorists as a result of inadequate security and accounting at nuclear facilities throughout the former Soviet republics and in dozens of other countries.

Another significant concern is that additional countries could acquire the capacity to produce fissile materials and manufacture nuclear weapons under the guise of "peaceful" nuclear endeavors. North Korea may already have manufactured a small nuclear weapons arsenal. Iran may soon have the capacity to produce fissile material for weapons and may do so if current European diplomatic efforts falter. As the NPT has been interpreted,

countries can acquire technologies that bring them to the very brink of a nuclear weapons capability without explicitly violating the agreement, and can then leave the treaty without penalty unless the United Nations Security Council takes action.

Fifteen years after the end of the Cold War, the majority of countries also feel that the five original nuclear-weapon states do not intend to pursue their NPT-related nuclear disarmament commitments. That growing conviction—reinforced by lackluster progress on disarmament—erodes the willingness among certain states in the non-nuclear-weapon majority to fulfill their own treaty obligations, much less to agree to strengthen the regime.

For all these reasons, there are rising doubts about the sustainability of the nonproliferation regime. Nations with ample technological ability to develop nuclear weapons may be reconsidering their political decisions not to do so.

As the United Nation's recent High-Level Panel Report *A More Secure World* concludes: "We are approaching a point at which the erosion of the nonproliferation regime could become irreversible and result in a cascade of proliferation."

The global nuclear threat cannot be reduced without stronger international leadership and cooperation.

Consequently, the United States and other countries should pursue a comprehensive and balanced approach beginning with the 2005 NPT Review Conference. They should:

1. Agree to establish more effective controls on technologies that can be used to produce materials for nuclear weapons.
2. Expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with nonproliferation rules and standards through existing authority and the Additional Protocol, to which all states should adhere.
3. Conduct vigorous diplomacy to halt uranium-enrichment and other sensitive nuclear fuel cycle activities in Iran and dismantle North Korea's nuclear weapons capacity, as well as diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate nonproliferation and disarmament efforts in those regions.
4. Accelerate implementation of the nuclear-weapon states' disarmament obligations and commitments, including further reducing the alert status and size of their nuclear stockpiles, permanently barring nuclear test explosions and the production of fissile materials for weapons, refraining from development of new nuclear weapons, and reaffirming existing assurances to NPT non-nuclear-weapon states that they will not be subjected to nuclear attack. These steps would reduce the risk of nuclear war and the allure of nuclear weapons.

5. Secure all nuclear-weapons-usable material to the highest standards to prevent access by terrorists or other states by expanding programs to secure and eliminate these materials, halting the use of highly enriched uranium in civilian reactors, and strengthening national and international export controls and material security measures as required by UN Resolution 1540.
6. Clarify that no state may withdraw from the treaty and escape responsibility for prior violations of the treaty or retain access to controlled materials and equipment acquired for “peaceful” purposes.

The May 2005 Review Conference is a crucial forum for parties to measure progress—or lack of progress—in implementing their mutual NPT obligations and commitments. It is also an essential opportunity for the parties to demonstrate their political will to make further tangible progress to meet all of the treaty’s objectives. The success of the conference should be judged by the ability of the parties to agree on specific, additional steps that will strengthen the treaty regime. The security of the international community demands no less.

Sec. Madeleine K. Albright
 Alexei G. Arbatov (Russia)
 Amb. George Bunn
 Amb. Ralph Earle II
 Robert J. Einhorn
 Amb. Robert L. Gallucci
 Amb. James E. Goodby
 Rose Gottemoeller
 Amb. Thomas Graham, Jr.
 Amb. Robert Grey, Jr.
 Hon. Lee H. Hamilton

Hon. John D. Holum
 Hon. Spurgeon M. Keeny, Jr.
 Jessica Mathews
 Sec. Robert S. McNamara
 Sec. William J. Perry
 Lt. Gen. Robert E. Pursley (USAF Ret.)
 Sen. Douglas Roche (Canada)
 Amb. Henrik Salander (Sweden)
 Hon. Lawrence Scheinman
 Amb. Wendy R. Sherman

Co-Chairs

Joseph Cirincione,
 Carnegie Endowment for International
 Peace

Daryl G. Kimball,
 Arms Control Association

ATTACHMENT 3

NPT Review Conference Recommendations from *Universal Compliance*

The following recommendations, from the Carnegie report *Universal Compliance, a Strategy for Nuclear Security*, are particularly amenable to promotion through the NPT Review Conference in New York this May.

Urge changes/clarification of NPT withdrawal process.

Adopt resolutions through the UN Security Council to hold states that withdraw from the NPT responsible for violations of the Treaty, and prohibit their continued use of materials and facilities acquired while party to it.

Encourage alternative approaches to the international fuel cycle.

Seek an internationally endorsed ban on the production of HEU and a decades-long moratorium on the separation of additional weapon-usable plutonium. Aggressively pursue proliferation-resistant fuel cycle concepts that avoid plutonium separation.

Provide guaranteed, economically attractive fuel services to states that do not enrich uranium or reprocess plutonium, and consider ways to place existing facilities under new institutional controls.

Reaffirm or update the “13 Steps” disarmament benchmarks .

Reaffirm and act to implement the thirteen steps agreed to in 2000, or negotiate and implement similar disarmament steps.

Urge production of disarmament “White Papers”.

To demonstrate commitment to disarmament, the nuclear weapon states and states with stocks of fissile materials should publish white papers detailing how they could dismantle their nuclear arsenals or account for and securely store all of their fissile materials in a verifiable manner as would be required in a world without nuclear weapons.

Make the IAEA Additional Protocol mandatory.

Make the IAEA Additional Protocol a condition of supply for all Nuclear Supplier Group transfers.

Promote transparency in nuclear commerce.

Reform existing export control regime operations by requiring notices of all sensitive exports, moving away from consensus rule making, establishing cooperative review of export control implementation, and considering penalties within export control systems for noncompliance.

Promote voluntary codes of conduct.

Pursue voluntary codes of conduct and related measures with investment, banking, and manufacturing firms to discourage and prevent nuclear trafficking.

Back accelerated global “Clean-Out”.

Accelerate and increase funding for the Global Threat Reduction Initiative to secure and relocate vulnerable nuclear materials worldwide within four years.

Mr. ROYCE. Mr. Sokolski.

**STATEMENT OF MR. HENRY D. SOKOLSKI, EXECUTIVE
DIRECTOR, NONPROLIFERATION POLICY EDUCATION CENTER**

Mr. SOKOLSKI. First, let me say that I want to congratulate you and the Members of the Committee for agreeing to hold hearings. You know that this is the only hearing that is being held on this topic. This is good news for you, bad news for the Congress. It means you are doing your job.

I think probably more than anything else, I think what you do may matter more than many of the things we on the other side of this dias have to say, and I congratulate you for, I think, a great start, and I look forward to watching and seeing more hearings and more work by your staff. I think this is very important work, and I am encouraged, and pleased, and honored to be here.

Having said that, I think the thrust of what I would like to say is that the success of this conference and ultimately the NPT is far less likely to turn on anything that might transpire up in New York in the next 4 weeks than it is on what we are prepared to do over the next 5 years.

That should give you cause to be even more depressed because if it is just the next 5 weeks, it is pretty easy. You can say and do things and vote on things, and then you are done with it.

I think that as far as what our Government has prepared to say at this review conference, it is pretty good. There is only one problem. We need to say and do one heck of a lot more than that, and it is not just us. It is the other governments too, and they are not saying or doing anywhere near as much as they need to tackle the problems for the next 5 years.

I want to focus on one specific thing that I think is most important. The U.S. and its friends, I think, must focus far greater attention to distinguishing between nuclear activities that are safeguardable and peaceful, and therefore authorized under the NPT, and those that are too risky, uneconomical, and close to bomb-making to enjoy this protection.

If we fail to do this, international security and U.S. security costs will be immense. At the very least it will make a hash of the two soundest aspects of our current policy; that is, our call on Iran to cease its efforts to make nuclear fuels and President Bush's appeal to restrict the further spread of reprocessing enrichment. Worse, it is going to distort the NPT from a nonproliferation treaty into a universal subterfuge for states wishing to acquire the technology and materials necessary to build bombs.

If we fail to clarify what is peaceful, the NPT will be undermined, moreover, and I emphasize this point, even if we act against states who try to make nuclear weapons or violate their nuclear safeguards obligations.

In other words, you could have a world full of Japans located in the Middle East and the Far East. I do not think you want that. It is one thing to take care of the Irans, but you have got to worry about the Japans as well. And what I mean by that is, they are legally in good favor and have reprocessing enrichment and about 9,000-weapons-worth of separated plutonium sitting around. You do not want to see the world follow that example.

Now, in this regard, I think our Government is in a very awkward legal position, and it needs to extricate itself at some point, and I think it better be soon. When you talk about our current position on Tehran and our efforts to get countries to cease enriching and reprocessing, we have a very odd position.

Our Government insists that Iran is trying to make nuclear weapons. Yet no matter how much we and the Iranians disagree about their intentions—peaceful and military—our diplomats and theirs actually agree that members of the NPT that have not yet been found in violation have an inalienable right to do this reprocessing enrichment. So long as that is the case, we and our allies, if we keep conceding that point, the chances of getting Iran taken care of properly are about slim to none.

In fact, the NPT does not mention a right to reprocessing enrichment and with good cause. Just before the conclusion of the NPT negotiations, Spain and Mexico demanded that nuclear power states share the entire fuel cycle. That idea was shot down.

The historiography—and I have a copy here along with two other things I hope can be placed in the record with your agreement—has been done and was done 30 years ago from the Arms Control and Disarmament Agency. More recently, I and George Perkovich, a former foreign affairs aid to Senator Biden—and for those who do not know, I have never voted Democratic except in Chicago—co-authored a piece urging the State Department to back this original understanding. And in short, these points are not partisan. I would just like to cut now to the chase to what I think are three ideas of the five I mentioned that deserve attention here because they are under our control.

The first is there really ought to be an indefinite freeze on any expansion anywhere, including the U.S., of existing plutonium separation efforts, which we do not do, and fuel fabrication plants, which we are building down in South Carolina, a big MOX facility. I think it is going to be like the Space Station or the Clinch River Breeder Reactor. We will spend a lot of money and it will never get done. Let us save some money and do something for the NPT.

Second, I think a 5-year renewable moratorium on the expansion of any nation's net uranium enrichment capacity would make a lot of sense. I understand that Pierre Goldschmidt believes that this is the way to go. It is a modification of both Mr. Bush's and Mr. ElBaradei's proposal. I think that ought to be looked at more carefully. And if you folks should choose to hold hearings on the ideas about moratoriums, that would be fantastic. Get industry in here.

Finally, and this is a slam-dunk, encourage all states to compare any proposals to build or complete a large nuclear facility against alternatives that could produce similar benefits at lower cost. Everyone tells me you cannot do that. How would you begin? No one will agree. Well, I have got a modest proposal.

Here, I think, we in the U.S. could do something that would propel this very quickly and substantially by doing something that is really radical: Following our own law. This was pointed out to me by Len Weiss, who worked for Senator Glenn and helped write the Nuclear Nonproliferation Act 30 years ago. There is a title V. I have to say I did not read it before, but there is a title V, and it is two pages long, and it talks about, among other things, that the

U.S. should cooperate with other nations, international institutions, and private organizations establishing programs to assist in the development of non-nuclear energy resources.

There are a number of provisions, one of which is an annual report on what we are doing. And by the way, we are doing some things. It is just not under this title. To date, to my knowledge, Congress has not asked for these reports. They have never been filed in 30 years. Start there is my suggestion.

And I should stop because I did go over. That is bad.

[The prepared statement of Mr. Sokolski follows:]

PREPARED STATEMENT OF MR. HENRY D. SOKOLSKI, EXECUTIVE DIRECTOR,
NONPROLIFERATION POLICY EDUCATION CENTER

KEEPING NUCLEAR ENERGY PEACEFUL: WHY WE MUST REVIEW THE NPT

Mr. Chairman, I want to thank you for asking me to testify on the Nuclear Non-proliferation Treaty (NPT) and the upcoming NPT review conference. The thrust of my testimony is that the success of the conference and ultimately of the NPT is far less likely to turn on anything that might transpire in New York in the next four weeks than it is on what we are prepared to do over the next five years.

I say this because although what our government is planning to say at the review conference is sound enough, preventing further proliferation will require us and other like-minded nations to say and do much more. In specific, the U.S. and its friends must focus far greater attention to distinguishing between nuclear activities that are safeguardable and peaceful and, therefore authorized under the NPT, and those that are too risky, uneconomical, and close to bomb-making to enjoy this protection.

Certainly, if we fail to do this, the cost to U.S. and international security will be severe. At the very least, it will make a hash of the two soundest aspects of our current nuclear nonproliferation policy—our call on Iran to cease its efforts to make nuclear fuels and President Bush's appeal to restrict the further spread of reprocessing and enrichment activities. Worse, it will distort the NPT from a nonproliferation treaty into a universal subterfuge for states wishing to acquire the technology and materials necessary to build bombs. If we fail to clarify what's peaceful, the NPT will be undermined, moreover, even if we act against states who try to make nuclear weapons or who violate their nuclear safeguards obligations.

One can appreciate these points best by considering our current position that Tehran cease its efforts to enrich uranium and chemically reprocess spent fuel—two activities that can bring a state within days of having a bomb. Our government insists Iran is trying to make nuclear weapons. Yet, no matter how much we and the Iranians disagree about their intentions, both our diplomats and theirs too quickly agree that members of the NPT have an "inalienable" right to enrich and reprocess. So long as we and our allies concede this point, the chances of Iran abandoning making nuclear fuel are slim to none.

In fact, the NPT does not mention a right to reprocessing or enrichment, and with good cause. Just before the conclusion of NPT negotiations, Spain and Mexico demanded that nuclear power states share the "entire fuel cycle". The idea was shot down. Instead, the NPT stipulated that a state's inalienable right to develop peaceful nuclear energy would only be protected if it was exercised in conformity with the treaty's prohibitions against acquiring nuclear weapons or receiving or seeking any assistance in their manufacture.

The historiography on these points was first documented in a contract study done for the U.S. Arms Control and Disarmament Agency nearly 30 years ago. More recently, I and George Perkovich, a former foreign affairs aide to Senator Joe Biden, co-authored a piece urging the State Department to back this original understanding. These points, in short, are hardly partisan.

We also need to clarify what can and cannot be safeguarded "with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons." As I detail in an analysis published in this month's *Arms Control Today*, safeguarding the production, processing and fabrication of nuclear fuels against their quick diversion to make large numbers of weapons is not yet possible in at least three critical respects. These activities not only can be diverted to making bomb fuel overnight, but involve the production and stockpiling of materials that either can be fashioned into a bomb directly in a matter of hours or days or be used to accelerate the bomb making process. In the course of their normal operation, enrichment, reprocessing

and fuel fabrication plants working with plutonium and highly enriched uranium have historically lost account of many bombs worth of nuclear fuel each year. For these reasons, we need to restrict these activities as much as is economically and technically feasible. That said, it will be politically and legally impossible to do so if officials in the U.S., Iran and elsewhere continue to insist that these activities can be safeguarded against diversion when they clearly cannot.

To correct this, the U.S. and other like minded states need sooner rather than later to undertake at least one or more of the following steps:

- *An indefinite freeze on any expansion anywhere of existing plutonium separation efforts, and of fuel fabrication plants that handle nuclear weapons-usable fuels.*
- *A five-year, renewable moratorium on the expansion of any nation's net uranium enrichment capacity.* Under this proposal, states could modernize existing capacity, but whatever new enrichment capacity they put up would have to be balanced by bringing down an equivalent amount of old capacity.
- *Encourage all states to compare any proposal to build or complete a large nuclear facility against alternatives that could produce similar benefits at a lower cost.* Here the U.S. could best take the lead by upholding title V of the U.S. Nuclear Nonproliferation Act of 1978. Under this law, the U.S. is "to cooperate with other nations, international institutions, and private organizations in establishing programs to assist in the development of non-nuclear energy resources." To date, key provisions of this law have not been implemented.
- *An indefinite suspension of international transfers of nuclear weapons-usable materials, unless the transfer's purpose is to dispose of the material or to make it less accessible for weapons use.*
- *A reassessment of the limitations of the IAEA's ability to safeguard nuclear facilities and materials.*

These measures will take time and effort to implement. Yet, if we fail to take timely action on them, or similar measures, more and more states will be able overtly to acquire the means to make nuclear bomb-making materials quickly claiming they have a peaceful, legal right to do so under Article IV of the NPT. How the U.S. and its friends would then prevent these nuclear activities' and materials' military diversion or use is, at best, unclear.

Mr. ROYCE. Mr. Sokolski, you touched on the history in your testimony, and I am going to give you a chance to expand on it. You indicate that historically the understanding on article IV was not the way it has evolved, and maybe you would like to indicate your understanding of the way in which the original interpretation would work against this sense of entitlement to enrichment.

Mr. SOKOLSKI. One of the things that I would like to place into the record is a brief history of what is called "Article IV and the Straightforward Bargain," which is the prevailing wisdom of countries like South Africa, Brazil and Egypt. I thought I would add them to the list so you can have more countries to follow up on, Congressman Sherman.

Mr. ROYCE. He is taking notes.

Mr. SOKOLSKI. Well, you should, you should. They are not the easiest countries to work with on these matters, and they are pretty consistent.

That said, this history—which was, I think, originally contracted for Fred Clay, who was the Director of the Arms Control and Disarmament Agency, by the man I studied under at the University of Chicago, Albert Wolfstetter—makes for good reason, but there is more historiography on the way. I just received a legal journal article written by a man who wrote a book, and now in his late life has decided to go to Harvard Law School. I can supply you with more historiography.

But essentially it boils down to this: There is no per se right granted by the NPT to any specific nuclear technology. They talk about peaceful nuclear technology. There were attempts to specify reprocessing enrichment. These failed. There was discussion about the need to set up objective criteria to prevent enrichment and reprocessing by the Swedish delegation. I have to say, unfortunately, these did not succeed or they were not followed up.

The United States was extremely coy in not confirming the existence of such rights and saying that well, the NPT prohibits certain things. I think all of this suggests that to say that the treaty locks in reprocessing enrichment is dead wrong, and there is this other all too compelling point, and that is—I am not a lawyer but I studied law at graduate school for 3 years, constitutional law—it was my understanding that if you have a body of law and there are two interpretations on its provisions, and one guts the meaning and intent of the law and another gives it more meaning, it is pretty obvious which one you go with. And in this case it is a nuclear non-proliferation treaty that if anyone intended, that you could get right up to the last whisker to a bomb under the treaty as a matter of right strikes me as absolutely insane, and I do not think the people who drafted this were insane.

Mr. ROYCE. And what is the states current interpretation on it?

Mr. SOKOLSKI. This is the sad part.

Mr. ROYCE. Is it defined?

Mr. SOKOLSKI. It is unfortunate that—there is something that goes on in government that I do not appreciate. They are called legal counsels. And we have legal counsel divisions. It is not just that you have a legal counsel if you are an Assistant Secretary. There is a whole department for legal counsels.

Now, these people generally deal with the details of life, and they are necessary and important and good. But a lot has been delegated that is not really detail anymore; it is policy. And I always say there are two kinds of lawyers. There are the yes lawyers, and if you ask them a question can you do something, they say, "Yes, I think you can." By the way, they make a lot of money. And then there are the no lawyers, and whatever you ask, the answer is, "No, it is prohibitive." They work in the government more often than not. [Laughter.]

And these folks have taken upon themselves to intercede not just with Republicans but Democrats as well to say no to some really commonsensical things.

I think you need to be careful. If you want to talk to these people, do not do it in a hearing. Talk to them privately because if you get it on the record, then you are stuck, so it is very tricky. But I think you should talk to some of these people. I can help name names privately. But I think what you want to do is find out what they think. They think three things that are quite astounding to me.

One is that everything is safeguardable if it is declared, even though we know in fact that if you have got nuclear weapons usable material, you can divert it and make it into a bomb quicker than anyone can prevent you from moving in that direction.

Mr. ROYCE. Right.

Mr. SOKOLSKI. The same thing with the facility, et cetera, et cetera, et cetera. They also think that there is an inalienable right to everything as long as you are in compliance, which puts them four-square with the Iranian foreign ministry, which is bizarre. And they also have read 12-C of the IAEA statute which clearly states that not only can you suspend IAEA assistance, but you can ask member states to suspend cooperation with a noncompliant state as meaning that you cannot ask any states to suspend the cooperation.

So I think privately your staff needs to get friendly with the legal counsels and understand how they see things because they are controlling us.

Mr. ROYCE. Well, this does not track with Assistant Secretary Rademaker's comments, but I know what you are talking about in terms of the lawyers at State, and it does not always work. Your admonition about not bringing them up to testify—when we were trying to put an end to hate radio, we made that mistake. And they are absolutists, and they said no, the Hutu militia, we should not have jammed those radio broadcasts that called for genocide because it is free speech.

Mr. SOKOLSKI. There you go.

Mr. ROYCE. And we made the mistake of calling them up here, and they said, "No, it would still be free speech, and we are still against it." We have been down that road.

Mr. SOKOLSKI. Do not be discouraged though. You have much more leverage because you have election certifications, they do not. You pay the bills, they do not, and they are not even appointed. Mr. Rademaker is a political appointee. So I think this is due diligence work, and I am sure the right thing will transpire in time.

Mr. ROYCE. It may not end up affecting our policy, ultimately, if we simply decide to not listen to some of the lawyers.

Mr. SOKOLSKI. Well, there is the—I always say if all else fails there is what we—I used to work on the Hill, I worked on the Senate side so we called them "senselessness" of the Senate resolutions, playfully. But you know, you can establish what you think. You have a constitutional role to interpret the law as well.

Mr. ROYCE. Let me ask you about other states because all of you touched on that as well. What does this generally lackluster attitude about proliferation, about North Korea and Iran, say about the commitment of other states toward the NPT? Is it realistic to expect the adoption of more rigorous safeguards given the laissez faire attitude we have seen from much of the world toward what is happening right now in Iran and North Korea?

Mr. CIRINCIONE. Maybe I could start with that. Perhaps I can start with that, Mr. Chairman.

Mr. ROYCE. Mr. Cirincione.

Mr. CIRINCIONE. Most states adhere to the nonproliferation treaty because it is in their own national security interest to do so, and you might think of this as a collection of regional security pacts. They want to stop their neighbors from getting nuclear weapons. So most states, particularly those who live in neighborhoods where there is some with suspected nuclear ambitions, are very concerned about this, and are very dedicated to this.

At this review conference we are going to see another manifestation of the emergence of the European Union as a player on these issues. They are coming in with a joint statement, a joint position on a number of these issues, and what is significant there is that the EU includes two nuclear weapon states: United Kingdom and France.

They are serious about safeguards. There was a lot of support for the U.S. drive to enact U.N. Resolution 1540, which was a great achievement of this Administration last year, which called for all nations to strengthen their export control and material security provisions.

The challenge we have before us now is to take that verbal commitment and actualize it, and get countries to do this.

On Iran and North Korea, most countries do see this as a very, very difficult issue. I would say the difference is that the United States sees these countries as threats that have to be confronted, and most other nations see them as problems that have to be managed.

Mr. ROYCE. Yes.

Mr. CIRINCIONE. And they continue to believe that they are negotiating solutions to these problems, and that is the essential difference between the United States approach and even our closest allies, whether it be South Korea or France and the U.K.

Mr. ROYCE. We will go to Mr. Sherman.

Mr. SHERMAN. My colleagues know that I have been very critical of programs that take U.S. taxpayer dollars and use them for the benefit of the Government of Iran, such as money laundered through the World Bank that finds itself at the disposal of that government. And up until these hearings it had not occurred to me that a portion of our State Department budget was also serving the interests of the Iranian nuclear weapons program, and in my own shy way, let me simply say that I have got the longest record of anybody in this room in supporting the rights of Federal Government employees. That is because my party does so more often than the Chairman, and I have been here longer than my colleague from Burbank.

But if those who suggest that article IV allows a country to develop the full fuel cycle, are undermining the national security of the United States, and I do not see any reason why lawyers or anyone else who takes that position should be receiving a Federal salary.

So if the Administration wants to say, "Oh, we are stuck with these lawyers," they are not, and ultimately the President has to take responsibility for what the State Department does. And if there are lawyers undermining our national security, he will find Democratic support in providing him whatever he needs should he ever wake up and decide he wants to do something about the Iranian nuclear weapons program, an unlikely occurrence.

I have a question for, really I guess all of you, and that is: To what extent do you believe the U.S. nuclear policies hurt our credibility on nonproliferation generally and our efforts to deal with the NPT conference particularly? Do you believe that we hurt our nonproliferation efforts by departing from the ABM treaty, by pursuing low-yield nuclear weapons and so-called bunker busters, by failing

to ratify the CTBT, and by failing or at least not making sufficient progress in our own disarmament obligations under NPT?

Mr. DU PREEZ. Mr. Chairman, if I could respond to that, and my answer would be an unequivocal yes, unfortunately. I do think that even close allies of the United States have taken a very critical view of the U.S. record in this regard.

As I mentioned in my statement, I—

Mr. SHERMAN. If we were going to correct one of those concerns, which one would you pick?

Mr. DU PREEZ. If I would—I mean, I would make a related one, I would say two issues. One is that the United States should very urgently signal that it is ready to negotiate a fissile material ban treaty. That, I think, would send a very positive signal to this conference. It will send a very positive signal to the almost defunct Conference on Disarmament that is being—

Mr. SHERMAN. Well, we have limited time, sir. I asked for one. You are going to give me two.

Mr. DU PREEZ. Let me give two with explanations.

Mr. SHERMAN. Go on.

Mr. DU PREEZ. If I may just add to that, linked to that is that the United States should state emphatically that it has no intention to develop new types of nuclear weapons because this is what countries fear—that non-nuclear weapon states are being threatened by these kind of weapons.

Mr. SHERMAN. Okay. I will take the panelists in order, but I do not see this gentleman, go ahead.

Mr. CIRINCIONE. I spent a lot of time in the last few months going around to international capitals. I was just in Geneva talking to a number of the delegations. I was in Moscow. I was in Tehran last month. There is no doubt that there is a widespread perception by many nations that the United States has not done enough to uphold its part of the bargain, and this is undermining our efforts to get them to do more on their side of the bargain.

Mr. SHERMAN. I think in Tehran it is an excuse, not a reason, but giving that government excuses is not such a good idea.

Mr. CIRINCIONE. Yes, but this is the perception that is shared by even our closest allies.

Mr. SHERMAN. I understand.

Mr. CIRINCIONE. And the problem that you have—

Mr. SHERMAN. Do you agree with your colleagues or fellow panelist's view? If you had to pick one thing, what would it be?

Mr. CIRINCIONE. I would say it is the policy, and it would be statements by the United States that would indicate they would devalue in nuclear weapons in the policy of the United States; that is, not developing new nuclear weapons, not seeing them as playing a central role.

Mr. SHERMAN. No first-use policy and a research program that was consistent with the no first-use policy. I will go on to the third panelist.

Mr. SOKOLSKI. I take it from your comments that we can count on you calling over to your Democratic counterparts in the Senate who interpret treaties to hold a hearing so that we can get this matter resolved. They held a hearing over there.

Mr. SHERMAN. They ratify treaties. I do not think they have a constitutional role superior to us in interpreting treaties.

Mr. SOKOLSKI. Well, no, but it would help if it came from there as well because of their ratification powers.

In any case, I refer to the ABM treaty where the Senate, for better or worse, was considered to be dispositive on these matters during those years. In any case, we can talk, but I think more work can be done.

In answer to your question, I would focus actually in an area that no one has paid much attention to, and that is, we need to clean up our act with regard to civilian nuclear power exports, and what we are doing here. We subsidize nuclear power. And if I heard the President correctly, we might be doing more of it. I do not know.

We want to put energy decision on a free market diet as much as possible so that we can isolate—

Mr. SHERMAN. We also subsidize petroleum in the sense that we have a foreign policy designed to secure it.

Mr. SOKOLSKI. Okay.

Mr. SHERMAN. So it is hard to say that nuclear power is benefiting more than petroleum as a fuel source.

Mr. SOKOLSKI. It is, but I think you know as well as I that we can do better, and the better we do in using market mechanism for energy decisions the smarter the results will be for everybody, including the environmentalists.

Finally, do we really want to sell reactors to India? Do we really want to look the other way on Chinese sales to Pakistan when we are saying we want to have the Additional Protocol to be the standard for sales? These countries are not safeguarded very much at all, much less will they ever sign on to the Additional Protocol. So I think that is an additional tick on my list at least.

Mr. SHERMAN. Thank you.

Mr. ROYCE. Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

Mr. Cirincione, I wanted to ask you what you thought it would take to accomplish the objectives that you set out in and alluded to in the legislation, which I am also a proud co-sponsor of. What would it take to get that done? What kind of leadership? What kind of priority? How would the Administration go about that? And do you see any signs that they are prepared to do that?

I am discouraged, frankly, because I think the statement you make in your testimony that our objectives should not be to simply avoid disaster, or to have a good series of discussions at the conference, or to produce a bland lowest common denominator final document, none of these will do the job, I am afraid that is all we are going to get out of this if we are lucky.

We will go and make the representations the Secretary made today of the efforts that we are making, and nothing will come out of it.

Mr. CIRINCIONE. Mr. Schiff, I would have to say that many non-proliferation experts share that view. We just heard from some yesterday at our meeting at Carnegie that it is too late; that there are things we should have been doing for the last couple of months. We

have not done them. There is nothing you can do in the next few weeks.

However, I would remind them and all of us that before the 2000 review conference there was also the sense of pessimism that nothing much could come out, and during the conference a very powerful series of recommendations was hammered out, and a consensus document was produced that enjoyed the enthusiastic support of a great number of the member delegations that were at that conference.

Things can happen in these negotiations.

Mr. SCHIFF. How did that happen though? Was there leadership from the Administration in 2000?

Mr. CIRINCIONE. The leadership got its act together. The leadership got engaged. The leadership was actually willing to bargain, and the interesting point here is that our allied—the expectations of other countries, including our allies, are so low at this point that it really would not take much on the part of the United States to get concessions from them, to get the kind of deal you would need to produce a statement that had some meaning. And by “not much from us,” I mean a recommitment to further nuclear reductions without going into numbers, without specifying that, that kind of statement could come out of this Administration. In some ways all we have to do is repackage some of the actions that the Administration is already taking; for example, reductions in our nuclear stockpile, and phrase them in a way that the others at that conference can hear.

The United States does not have a position on how to toughen up withdrawal from the NPT, but some of our allies, France and Germany, are floating some very interesting suggestions. These are in our interest. We like these ideas. We could agree with those kind of ideas.

Now it is possible that in the end Iran would be the nation that puts the stick in the spoke of the wheels, but that is not such a bad outcome for us as long as we are not seen as the reason this conference fails, and that we were getting close to a package of agreements, and that Iran is the one that made it fail. That actually plays to our advantage because then we have succeeded in isolating Iran and they have failed in their efforts to isolate us.

Mr. SCHIFF. The only critique I have of some of the goals that we have set out for the NPT review, as ambitious as they now appear, is that probably the most ambitious change to the non-proliferation regime is not in one of the proposals, and I am curious about your thoughts on that. And that is: What do you think of the idea of prohibiting the spread of the fuel cycle and in exchange granting people the material under international supervision and taking back the spent material? What do you think of that concept?

I mean, it has been proposed in different forums. There are obviously some major logistical problems with it. But what do you think of that whole idea?

Mr. CIRINCIONE. We are strongly in favor of that idea and we go into it in some detail in our report. There are some excellent articles out there on this; one that was written by John Deutsch and Dan Poneman in the latest issue of *Survival*, talks about making the world safe for nuclear energy, arguing that you have got to fun-

damentally reform these fuel cycle arrangements. The kinds of proposals that Henry Sokolski is putting forth are right on the mark; that you have to establish a new universal standard that there should not be any new uranium enrichment or plutonium reprocessing capabilities, and we would add, the existing ones have to come under some kind of international control.

There are interesting things that the market would support this kind of idea. There is no market reason for new facilities. We have an overcapacity right now for enriching uranium and reprocessing plutonium.

Mr. SCHIFF. Let me ask you two questions that I would love to hear the whole panel's thoughts on.

One is, what do you think Iran's reaction to that kind of proposal would be? Are they, for nationalist reasons of regional power, going to want the bomb anyway, or would this have some attraction to Tehran?

Or two, if all three of you, and this may be—I might be asking you to advocate against your proposal, but tell me what the flaws are, the potential flaws are in doing this. What are the problems that we would encounter if we embrace that kind of approach?

Mr. SOKOLSKI. Let me be the black sheep here a bit. When people talk about getting governments to back internationalization of this and that, grab your wallet. As Joe was pointing out, there is no market push for more reprocessing, more enrichment for the moment, and in the case of reprocessing, probably not for a very, very long time.

You do not want to use international authority to have governments rob their taxpayers to support activities that would otherwise die on the free market vine that are nasty to begin with, and of course, you do know that Urenco, which is a multinational enrichment organization, is the spawning ground of A.Q. Khan. They hire people from outside of their area. This is what happens with multinational/international systems. So you want to be careful on that front.

It seems to me that the two countries that would be most vociferous and have been in opposing the kind of suggestions you have got would be not just Iran, but Japan, and the reason—some focus needs to be placed on Japan.

I actually signed a letter with—I think I was the only Republican on there, it was a little frightening, but I signed anyway, because they were saying something that I could not disagree with, and that is that Japan, which is about to open up an enormous reprocessing facility that is commercial and will add thousands of bombs worth of separated plutonium sitting around, no one is saying anything about whether they should do that or not, and they are beating up on us because it is the 16th anniversary of Hiroshima.

Excuse me. Maybe you can do something here. Do not lose money. Japan is not happy with any of these moratorium ideas. They are very, very vocal on a private scale about this. So we are going to need to work with our friends here a bit to do anything, much less what you are suggesting.

Mr. CIRINCIONE. I would just add Brazil to that.

Mr. SOKOLSKI. Right.

Mr. CIRINCIONE. Those are our two biggest problems. Brazil is opening up a new uranium enrichment facility. There is no economic justification for this. You really have to have quite a large domestic nuclear power facility, on the range of 20,000 megawatts, or about 20 nuclear power plants to justify an indigenous uranium enrichment facility for fabricating the fuel. Brazil does not even come close to that, yet they are proceeding with this plan.

That is the problem, and that is the problem you encounter when you talk to the Iranians about this. They say all we want is what Brazil has.

Mr. SOKOLSKI. Right, or Japan.

Mr. CIRINCIONE. Or all we want is what Japan has, and this is what is going to make this crisis so difficult to resolve. This is building to a head. Some time this summer the negotiations are going to end either with a deal, or as most feel, a breakdown, a failure of negotiations. At that point Iran is going to present to the world its very reasonable-sounding proposals for staying within the rules.

Our whole approach toward Iran has been based on the idea that they have a hidden weapons program. Well, what if they do not? And I, frankly, think that the evidence so far is that they do not have a dedicated weapons program the way Iraq did or Israel did; that what they are really after is the Japan model, to have a very large nuclear power infrastructure and the ability to build nuclear weapons sometime in the future if they should so desire to do so, and that is a very difficult program to stop on a country-by-country basis. That is why you need a system reform that says you cannot do it in Iran, you cannot do it in Brazil.

The Iranians are already a step ahead of us. They are already talking about a multinational facility in Iran. They have invited, rhetorically, in a speech that an Iranian official made 2 weeks ago, for the United States to come in and buy half the uranium enrichment capability in Natanz, be a partner with Iran. That is what I mean by reasonable-sounding proposals.

They are playing this game above the rim already. We have got some catching up to do.

Mr. DU PREEZ. If I could just add to that. I think Mr. Rademaker, earlier this morning, mentioned the issue of the principle involved, and I do not think we should judge the reaction to this proposal by Iran's reaction. I mean, Iran is tainted, and I happen to agree with Joe, I have not seen conclusive evidence that Iran is building a nuclear weapon, but it certainly wants to retain that option.

But I think to answer your question, I think we are, in addition to the principle position, there are practical implications that need to be considered. His example of Iran offering Natanz as a regional facility, how acceptable will that be to the United States and other countries? What will the cost implications be?

But more importantly, what kind of political leverage will countries in charge, if one could compare this, for instance, to the World Bank or the IMF, have over countries that would like to obtain fuel in case a country falls out of sort of political support with those countries?

I would imagine a country such as Indonesia, which is rich in oil at the moment, if they want to develop a fuel cycle to support their

own energy sources, but if they fall out of fashion with the United States at some point, how would that impact on them and their support?

And I think from a developing country's perspective, and talking about my own country's perspective, that is what is driving this. That is what is driving the Brazilian's case as well. It is the principle that we are entitled, not under the treaty, but we are entitled as a sovereign right to use the atom for peaceful purposes.

Now, I agree with Henry that during the treaty's negotiation there were clear discussions that this inevitable right did not include a right to the fuel cycle, but it is kind of a broader issue. It is the principle of right to use the atom for peaceful purposes.

Mr. ROYCE. Well, I want to thank our three witnesses, and you are right, we have a great deal of work to do and a lot of dialogue which will continue in additional hearings that we are going to hold. But I thank you all for being on the forefront of trying to engage the United States in a policy here for the long run that will attempt to achieve what we saw a generation ago, where we had 20-some states that would have weapons, and we went down to nine, as you said, Mr. Cirincione.

We are indebted to each of you for the amount of time and effort you have devoted and the discipline you have brought to this study. We thank you for testifying here today.

We have had requests from others to submit testimony for the record, and we are reviewing that. Staff will be generous in terms of what we put into the record, and we thank you for submitting that testimony.

That said, we are going to adjourn, but we are going to stay in touch. Thank you very much.

[Whereupon, at 12:23 p.m. the Subcommittee was adjourned.]

A P P E N D I X

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ARTICLE I V AND THE
"STRAIGHTFORWARD BARGAIN"

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An issue of importance in the continuing debate over nonproliferation policy is the obligation of weapons states and other countries sophisticated in nuclear technology to provide assistance to non-weapons states in the peaceful applications of nuclear energy. Some prominent observers have expressed the opinion that the provisions of Article IV require the provision of all aid requested by the non-weapons states, because the Treaty is a "straightforward bargain" trading security for the weapons states for nuclear economic benefits for the non-weapons states. Mr. Justice Parker wrote this in The Windscale Inquiry, paragraph 6.16. In the House of Commons debate on the Parker Report, Mr. Tom King, chief Opposition spokesman on energy, said that, in responding to the statements of Mr. Peter Shore, Secretary of State for the Environment,

On the issue of non-proliferation, he shared Mr. Shore's views that Mr. Justice Parker's arguments were persuasive. The logic of the non-proliferation treaty was clear, that there was implicit in it that, for the consideration of not engaging nuclear weapons programmes, other countries would not be prevented from access to civil nuclear power. That was the bargain struck with those who had signed the treaty. (The Times (London), March 23, 1978, p. 6.)

Without question, the Treaty does require that assistance in peaceful Uses of nuclear energy be provided to states that wish to receive it. To call the Treaty a "straightforward bargain" is to go beyond a reading of the text itself. Such an interpretation could be taken to imply that, in exchange for an absolute renunciation of the right to acquire nuclear explosive devices, non-weapons states have the absolute right to receive any and all nuclear assistance short of the provision, by outside aid or by their own efforts, of nuclear explosive devices. This interpretation is dubious, for the common sense interpretation of the Treaty, as well as the explicit text of Article IV, is that the latter is subordinate to, and to be interpreted in conformity with, Articles I and II. It is, after all, a nonproliferation treaty. The provision of certain types of nuclear technology that defeat the objective of nonproliferation by bringing a non-weapons state recipient within days or hours of a weapon, cannot be an objective toward a nonproliferation treaty. If logic will not sustain the "straightforward bargain" interpretation, perhaps the history of the NPT negotiations will. Let us now turn to a brief examination of some of the features of that history that pertain to the "straightforward bargain" idea.

The path to the Non Proliferation Treaty begins in 1958 with the first resolution on this subject introduced into the UN General Assembly by Ireland. The key provision of this resolution was a statement that the General Assembly recognizes "that the danger now exists that an increase in the number of states possessing nuclear weapons may occur,

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aggravating international tension...." (Quoted in William B. Bader. The United States and the Spread of Nuclear Weapons. New York: Pegasus, 1968, p. 36.) Ireland submitted such resolutions annually. It should be noted that Ireland was and is a non-weapons state whose traditional antagonist, the United Kingdom, was and is a weapons state. Therefore, it is interesting to note that the first international efforts against proliferation were not initiated by weapons states hoping to limit "the club" to its current membership. We shall return to this point, which is an important one because it is often claimed erroneously that only weapons states gain security from the NPT regime.

Equally interesting is the fate of the 1958 Irish resolution. The United States opposed a companion resolution which called for states involved in current test ban negotiations not to supply other states with nuclear weapons while the negotiations were in progress. This latter resolution was withdrawn. So was the original nonproliferation resolution, but not before Irish Ambassador Frank Aiken called for a vote on the key paragraph. The vote was 37 in favor, and 44 abstentions, including all NATO members. Thus the non-weapons states supported this resolution more solidly than did the weapons states, with 2 of the 3 then in the latter group abstaining. (Ibid. pp. 37-38)

The 1961 submission of the Irish resolution brought better results, with unanimous approval of the following text.

The General Assembly,
Recalling its resolutions 1380 (XIV) of 20 November 1959
 and 1576 (XV) of 20 December 1960.
Convinced that an increase in the number of States possessing nuclear weapons is growing more imminent and threatens to extend and intensify the arms race and to increase the difficulties of avoiding war and of establishing international peace and security based on the rule of law,
Believing in the necessity of an international agreement, subject to inspection and control, whereby the Powers producing nuclear weapons would refrain from relinquishing control of such weapons to any nation not possessing them and whereby Powers not possessing such weapons would refrain from manufacturing them,

1. Calls upon all States, and in particular upon the States at present possessing nuclear weapons, to use their best endeavours to secure the conclusion of an international agreement containing provisions under which the nuclear States would undertake to refrain from relinquishing control of nuclear weapons and from transmitting the information necessary for their manufacture to States not possessing such weapons, and provisions under which States not possessing nuclear weapons would undertake not to manufacture

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or otherwise acquire control of such weapons;

2. Urges all States to co-operate to those ends.
 (General Assembly Resolution 1665
 (XVI): Prevention of the Wider Dis-
 semination of Nuclear Weapons,
 December 4 , 1961. Reprinted in
 United States Arms Control and
 Disarmament Agency, International
 Negotiations on the Treaty on the
 Nonproliferation of Nuclear Weapons.
 Washington: U.S. GPO, 1969, p. 131).

It is important to notice that, not only does this resolution not require the dissemination of all materials and information on nuclear energy with the exception of actual explosive devices, but it explicitly states that weapons states "would undertake to refrain . . . from transmitting the information necessary for their manufacture to States not possessing such weapons. . . ." It should be remembered that this very strong antiproliferation resolution was adopted without dissent.

The primacy of security concerns in the NPT system has been demonstrated quantitatively by Professor Lloyd Jensen. He studied the full debate in the UN General Assembly that preceded the vote on the NPT in 1968. Eighty-seven different delegations commented on the Treaty. Jensen content-analyzed all of the speeches made during the 1968 General Assembly debates on the NPT in an effort to discover the specific reservations that the various delegations expressed about the Treaty. His results may be summarized in the following table, taken from Jensen's Book.

Percentage of Speakers Expressing Concern on Various
 Aspects of the Nonproliferation Treaty

Aspect	%
Security Guarantees	62
Failure to Link to Broader Disarmament	44
Concern for Peaceful Uses	41
Lack of Balance of Obligations between Nuclear and Nonnuclear States	36
Universality of the Treaty	33
Peaceful Explosions	26
Treaty Review	13
Effectiveness of the Inspection System	12
Nuclear Sharing	9
Treaty Duration	9

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(Source: Lloyd Jensen, Return from the Nuclear Brink: National Interest and the Nuclear Nonproliferation Treaty. Lexington, Mass.: Lexington Books, D.C. Heath and Company, 1974, pp. 1-2, 129-133. Jensen's source for this date is UN Documents, A/C.I/PV.1556-1579 (26 April 1968-5 June 1968).)

Yet even this table understates the primary importance of security questions. As Jensen writes, many of the other issues coded in his content-analysis are present because of concerns over national security.

Yet this was not the only reservation expressed about the security implications of the Treaty, for references suggesting that the Treaty ought to be linked to broader disarmament measures and statements raising questions about universality, treaty review and duration, the effectiveness of the inspection system, and nuclear sharing also suggested sensitivity to security issues. Given these serious concerns, there was considerable interest in the provisions for Treaty review and possible withdrawal should the Treaty obligations come into conflict with national security interests at some future date. (*Ibid.*, p. 2)

Given the officially expressed primary importance of national security questions to the majority of the nations of the world in their appraisal of the NPT, it would be surprising indeed if very many of them wanted their potential adversaries to be in a position to possess nuclear weapons within a matter of days or even hours. This is indicated by the number of countries expressing concern over such issues as the effectiveness of the inspection system, the universality of the Treaty and the Treaty duration. Once again, it is apparent that a viable non-proliferation system will increase the security of all states. Those who say that provision of all nuclear aid short of explosive devices is required by the Treaty in a "straightforward bargain" may find that they are advocating a nuclear aid policy that is undermining the security of the world community in general while it undermines the security in particular of the states that it is intended to help, and as these latter states themselves understand their own security.

Some of the history of the negotiations leading to the NPT and particularly to Article IV throw further light on the nature of the supposed obligation to provide any and all aid to the non-weapons states short of actual explosive devices. In 1967, Mexico proposed that it be a "duty" for nuclear weapons states to aid non-weapons states to develop peaceful applications of nuclear energy. Mexico further proposed that all parties would have the right to "participate in the fullest possible

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exchange of scientific and technological information on the peaceful uses of nuclear energy," The Mexican delegate, Ambassador Castañeda, justified and interpreted its proposal this way:

We believe that this duty can and should be enunciated as a true legal obligation, although the obligation is imperfect and general and its practical significance will continue to depend ultimately on the will of the nuclear Powers... . The phrase "according to their ability" refers not only to the parties' financial and technical ability but also to their legal ability, since much of this knowledge is covered by patents owned by private persons.

The Mexican proposal was not adopted. Canada, the United States, and the United Kingdom argued that the unrestricted obligation envisioned by Mexico was too sweeping, and the Treaty does not contain the Mexican amendment. Thus there is no "duty" for the weapons state to aid non-weapons states, although their right to "participate in the fullest possible exchange . . ." is part of the Treaty. This bit of history would seem to indicate that the obligation to assist is not absolute, and that perhaps "the fullest possible exchange" does not include exchanges which would undermine the objectives of the Treaty. (On the Mexican amendment, see United States and Disarmament Agency, *op. cit.*, pp. 83-84; and Mason Willrich, Non-Proliferation Treaty: Framework for Nuclear Arms Control, Charlottesville, Virginia: The Michie Company, 1969, pp. 131-132.)

In 1968, in the final debates in the ENDC, there was another proposal attempting to make the provision for nuclear aid even stronger. Spain believed that Article IV, in speaking of the "fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy," should "refer specifically to the entire technology of reactors and fuels." This amendment also failed of adoption, and the Article IV text was unchanged (USACDA, *op. cit.*, p.103)

It seems quite clear from the above legislative history that it was not the intent of the framers of the NPT to create an obligation to supply any and all forms of nuclear energy with the single exception of actual explosive devices. Certainly, the legislative history does not support the idea that the obligation to provide assistance is so far-reaching as to undermine the major purpose of the Treaty.

The desire for assistance in the peaceful uses of nuclear technology is not independent of the expected benefits. If some forms of nuclear energy are expensive, unreliable, and environmentally degrading, in

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addition to being dangerous to national security, then non-weapons states may not want them any more than weapons states would. In this connection, another passage from Jensen's book may be cited. In the above table, we saw that 41 percent of the speakers in the 1968 General Assembly debates expressed reservations about the Treaty's effects on peaceful uses in general and 26 percent had reservations regarding its effects on peaceful explosions. But this was done in a context of a period of optimism regarding the future of peaceful nuclear energy that has not been borne out by the course of events in the intervening decade. As Jensen wrote:

It may well be that the current optimistic estimates regarding the economic utility of fissionable materials are exaggerated just as was the case with earlier estimates. But as long as national decisionmakers perceive that the atom has an important future, national interest will dictate that they review the NPT very carefully for possible conflicts with long-range peaceful nuclear interests.

(Jensen, op.cit., p. 61)

Furthermore, it should be noted that the most frequently mentioned of the reservations compiled by Jensen regarding peaceful uses was the specific question of peaceful nuclear explosions, the one item of peaceful nuclear technology that is specifically prohibited in the Treaty. Optimism regarding peaceful nuclear explosives has also faded since 1968.

Finally, the desire for peaceful nuclear technology on the part of non-weapons states is largely dependent--for some non-weapons states almost entirely dependent--on the information about the blessings of the peaceful atom that they receive from weapons states and others advanced in nuclear technology. From 1945 to the present, there have been incentives felt by weapons states, and since 1953 strong incentive; for certain commercial groups, to overplay the benefits of the peaceful atom. If some non-weapons states have been persuaded to expect great benefits by the salesmanship of weapons states and industrial concerns, perhaps they can be persuaded not to rate such benefits as highly now that more information is available. An example of the atmosphere of a commercial fair is provided in this account of the Non-Nuclear-Weapons States Conference of 1968 by a veteran observer of the arms control scene.

A conference paper which claimed explicitly to be "based on American sources" concluded: "The development of nuclear explosives ... works for mankind as an answer to the increasing demand for energy, water, minerals, transportation links and food supply."Consequently most of the "peaceful uses"

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recommendations of the conference displayed the uncritical, even greedy, enthusiasm with which the non-nuclear states were responding to an apparent promise of economic miracle. They pointed out that they would require financial along with the technical assistance, suggested that special funds be set up for the purpose, and that representation on IAEA be reconstituted, wider and poorer.

(Elizabeth Young, *A Farewell to Arms Control?* Baltimore, Md.: Penguin Books, 1972, p. 119, one footnote omitted.)

In summary, the impetus for non-proliferation did not come from weapons states. In the beginning, it was not supported by weapons states as overwhelmingly as by non-weapons states. The logic of the NPT does not support the idea that either weapons or non-weapons states wish to have their security reduced by unrestricted commerce in especially dangerous forms of nuclear energy. The history of the negotiations leading to the NPT shows that several attempts to make the provision of all types of nuclear energy an obligation were considered and rejected. A careful quantitative analysis of the reasons for entering into the NPT regime has shown that most states were primarily concerned about their security and worried that the treaty would not protect it sufficiently. Much of the concern over peaceful nuclear activities was based on predictions which have since proven overly optimistic, and much of the concern was about PNEs, which are specifically prohibited by the Treaty and now seem to be of especially doubtful economic benefit. Much of the enthusiasm for the peaceful atom has been created by states and interests who now claim that they are morally bound by this enthusiasm they have engendered in their own supposed interests. The evidence is overwhelming that the "straightforward bargain" is a dangerous myth.

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